

1                   IN THE DISTRICT COURT OF THE UNITED STATES  
2                   FOR THE NORTHERN DISTRICT OF ILLINOIS  
3                   EASTERN DIVISION  
4

5                   RHONDA TRACY,                                 )  
6                   Plaintiff,                                     )  
7   )  
8                   -vs-   ) No. 99 C 2736  
9   )  
10                  JEWEL FOOD STORES, INC.,                 )  
11                  AMERICAN STORES COMPANY,                 )  
12                  WALMART STORES, INC.,                     )  
13                  DOMINICK'S FINER FOODS,                 )  
14                  INC., DRYPERS CORPORATION,                 )  
15                  KIMBERLY-CLARK CORPORATION,                 )  
16                  AND CONFAB HOLDING                         )  
17                  CORPORATION,                                 )  
18                  Defendants.                                 )

19  
20  
21  
22  
23  
24

16                  Videotaped deposition of RHONDA TRACY taken  
17                  before NADINE J. WATTS, CSR, RPR, and Notary Public,  
18                  pursuant to the Federal Rules of Civil Procedure for the  
19                  United States District Courts pertaining to the taking  
20                  of depositions, at Suite 5500, One First National Plaza,  
21                  in the City of Chicago, Cook County, Illinois,  
22                  commencing at 10:07 o'clock a.m. on the  
23                  25th day of May, A.D., 2000.

**H I G H L Y   C O N F I D E N T I A L**

<p>1        There were present at the taking of this  2 deposition the following counsel:  3  4        COOK, ALEX, McFARRON, MANZO,  5        CUMMINGS &amp; MEHLER, LTD., by  6        MR. EDWARD D. MANZO,  7        200 West Adams Street  8        Suite 2850  9        Chicago, Illinois 60606  10      (312) 236-8500  11      on behalf of the Plaintiff;  12      FULBRIGHT &amp; JAWORSKI, L.L.P., by  13      MS. LINDA L. ADDISON and  14      MR. MICHAEL S. MCCOY,  15      1301 McKinney  16      Suite 5100  17      Houston, Texas 77010  18      (713) 651-5628  19      on behalf of Defendant Drypers Corporation;  20      SIDLEY &amp; AUSTIN by  21      MR. WILLIAM H. BAUMGARTNER, JR. and  22      MR. RUSSELL E. CASS.  23      One First National Plaza  24      Chicago, Illinois 60603  25      (312) 853-7350  26      on behalf of Defendant Kimberly-Clark  27      Corporation;  28      MR. KYLE K. KAPPES,  29      401 North Lake Street  30      P.O. Box 349  31      Neenah, Wisconsin 54957  32      (920) 721-2331  33      on behalf of Kimberly-Clark Corporation:</p>	<p>2</p> <p>1                    DEPOSITION OF  2                    RHONDA TRACY  3                    May 25, 2000  4                    EXAMINATION BY:                    PAGE  5                    Mr. William H. Baumgartner, Jr.     6  6                    Ms. Linda L. Addison                73  7                    Mr. Craig R. Smith                136  8                    Mr. Edward D. Manzo                198  9  10                  Confidential pages marked 71-72 and 134-135.  11                  * * * * *  12                  EXHIBITS  13  14                  PAGE  15                  Deposition Exhibit No. 1                7  16                  Deposition Exhibit No. 2                7  17                  Deposition Exhibit No. 3                8  18                  Deposition Exhibit No. 4                8  19                  Deposition Exhibit No. 5                19  20                  Deposition Exhibit No. 6                28  21                  Deposition Exhibit No. 7                32  22                  (not attached)  23                  Deposition Exhibit No. 7A                34  24</p>
<p>1        FISH &amp; RICHARDSON, P.C.,  2        MR. CRAIG R. SMITH,  3        225 Franklin Street  4        Boston, Massachusetts 02110  5        (617) 956-5968  6        on behalf of Defendant Confab Holding  7        Corporation.</p> <p>8        ALSO PRESENT: Mr. Slawomir Kojro, videographer  9        Ms. Jeana Lervick  10      Mr. John Brodersen</p> <p>11  12  13  14  15  16  17  18  19  20  21  22  23  24</p>	<p>3</p> <p>1                  Deposition Exhibit No. 8                48  2                  (not attached)  3                  Deposition Exhibit No. 9                23  4                  (not attached)  5                  Deposition Exhibit No. 10                42  6                  (not attached)  7                  Deposition Exhibit No. 11                43  8                  (not attached)  9                  Deposition Exhibit No. 12                53  10          (not attached)  11          Deposition Exhibit No. 13                58  12          (not attached)  13          Deposition Exhibit No. 14                92  14          Deposition Exhibit No. 15                92  15          Deposition Exhibit No. 16                102  16          Deposition Exhibit No. 17                103  17          Deposition Exhibit No. 18                108  18          Deposition Exhibit No. 19                111  19          (not attached)  20          Deposition Exhibit No. 20                187  21          (not attached)  22          Deposition Exhibit No. 21                189  23  24</p> <p>19                  * * * * *</p>

**H I G H L Y   C O N F I D E N T I A L**

<p style="text-align: center;">6</p> <p>1   THE VIDEOGRAPHER: My name is Slawomir Kojro. I'm      2 a video technician for Depovision located at 20 North      3 Clark Street, Chicago, Illinois. The date is May 25.      4 2000. The time is 10:09 a.m.</p> <p>5   We are present here today at One First National      6 Plaza, Chicago, Illinois, with reference to the case      7 entitled Rhonda Tracy -v- Jewel Food Stores,      8 Incorporated, et al., pending in the United States      9 District Court, Northern District of Illinois, Eastern      10 Division, Case No. 99 C 2736. The witness is Rhonda      11 Tracy.</p> <p>12   An audiovisual recording of this deposition is      13 at the request of the defendant.</p> <p>14   One moment, please. Will the court reporter      15 identify herself and swear in the witness.</p> <p>16           <b>RHONDA TRACY.</b></p> <p>17   called as a witness herein, having been first duly      18 sworn, was examined upon oral interrogatories and      19 testified as follows:</p> <p>20           <b>EXAMINATION</b></p> <p>21         by Mr. Baumgartner:</p> <p>22         <b>MR. BAUMGARTNER:</b> Q We're subject to a five-hour      23 time limit today, and we can't pose all the questions      24 that we have of the witness, but we're going to try and</p>	<p style="text-align: center;">8</p> <p>1   average skill in the field of designing disposable      2 diapers?</p> <p>3       <b>A Yes.</b></p> <p>4       Q I'm going to hand you Defendant's Exhibit 3,      5 which is a design application filed with the United      6 States Patent Office. This is a design application that      7 you filed with the Patent Office in 1987; is that      8 correct?</p> <p>9       <b>A That's correct.</b></p> <p>10      Q Does your signature appear on the first page of      11 the design application?</p> <p>12      <b>A It does.</b></p> <p>13      Q I'm handing you Defendant's Exhibit 4. This is      14 a Declaration, Petition and Power of Attorney that you      15 signed on March 2, 1987; is that correct?</p> <p>16      <b>A That's correct.</b></p> <p>17      Q At the top of the first page it states in the      18 first sentence of text that you believe you are the      19 original, first and sole inventor of the invention      20 entitled An Ornamental Design for a Disposable Diaper.      21 Do you see that?</p> <p>22      <b>A Yes, I do.</b></p> <p>23      Q If you turn back to your design patent      24 application, which is Defendant's Exhibit 3, do you see</p>
<p style="text-align: center;">7</p> <p>1   make a good start.</p> <p>2       Q Would you state your name, please.</p> <p>3       <b>A Rhonda Tracy.</b></p> <p>4       Q I've handed you what's been marked as      5 Defendant's Exhibit 1. It is U.S. Patent 5,797,824 the      6 inventor of this patent is Rhonda Tracy of Glen Ellyn,      7 Illinois. Is that you?</p> <p>8       <b>A Yes.</b></p> <p>9       Q I'd now like to hand you what's been marked as      10 Defendant's Exhibit 2. It's U.S. Patent 5,064,421. Are      11 you the inventor on this patent as well?</p> <p>12       <b>A Yes.</b></p> <p>13       Q Are there any other issued patents where you are      14 the named inventor?</p> <p>15       <b>A No.</b></p> <p>16       Q Apart from the diaper designs described in      17 Defendant's Exhibit 1 and Defendant's Exhibit 2, have      18 you come up with any other designs for a disposable      19 diaper?</p> <p>20       <b>A No, I have not.</b></p> <p>21       Q Do you consider yourself to be a disposable      22 diaper designer?</p> <p>23       <b>A Now I am, yes, sir.</b></p> <p>24       Q Would you consider yourself to be of at least</p>	<p style="text-align: center;">9</p> <p>1   that -- would it be correct to say that its title is An      2 Ornamental Design for a Disposable Diaper?</p> <p>3       <b>A Yes.</b></p> <p>4       Q Is it correct that the Declaration, Petition and      5 Power of Attorney, which is Defendant's Exhibit 4, was      6 submitted in connection with your design patent      7 application, Defendant's Exhibit 3?</p> <p>8       <b>A Yes.</b></p> <p>9       Q Near the top of the first page of Defendant's      10 Exhibit 4 is some text that I have highlighted in      11 yellow. It reads as follows: "I have reviewed and I      12 understand the contents of the specification, including      13 the claims." Do you see that?</p> <p>14       <b>A Yes, I do.</b></p> <p>15       Q You understand that that statement is made in      16 reference to your 1987 design application?</p> <p>17       <b>A Correct.</b></p> <p>18       Q Was the highlighted statement true back in 1987      19 when you signed Defendant's Exhibit 4?</p> <p>20       <b>A Yes.</b></p> <p>21       Q Would it be correct today that you still      22 understand the specification and claims in your design      23 patent application?</p> <p>24       <b>A Yes, I do.</b></p>

**H I G H L Y   C O N F I D E N T I A L**

<p style="text-align: right;">10</p> <p>1 Q Let's refer back now to Defendant's Exhibit 3.      2 which is your design patent application.      3 A Uh-huh.      4 MR. MANZO: Counsel, just for the record, I'm sorry      5 for interrupting your line of questioning, but we should      6 have appearances at least of what companies are      7 represented here today.      8 MR. BAUMGARTNER: All right, that's fine.      9 For Kimberly-Clark I'm Bill Baumgartner, and      10 several people are accompanying me who can identify      11 themselves.      12 MR. KAPPES: I'm Kyle Kappes with Kimberly-Clark.      13 MR. CASS: Russ Cass with Sidley &amp; Austin      14 representing Kimberly-Clark.      15 MR. BRODERSEN: John Brodersen with Kimberly-Clark.      16 MR. SMITH: Craig Smith of Fisher &amp; Richardson      17 representing Confab Holding Corporation.      18 MS. ADDISON: Linda Addison and Mike McCoy,      19 Fulbright &amp; Jaworski, representing Drypers.      20 MR. MANZO: Okay. So no other defendants are      21 represented today; is that correct?      22 MR. BAUMGARTNER: Evidently.      23 MR. MANZO: And we will probably be getting into      24 confidential testimony. I think at some point we need</p>	<p style="text-align: right;">12</p> <p>1 only need to do it on one side.      2 A Okay.      3 Q Could you sign your name and write the date.      4 which I believe is --      5 MR. MANZO: May 25.      6 MR. BAUMGARTNER: Q May 25th.      7 A (Indicating.)      8 Q Thank you. Back in 1987 do you believe that a      9 diaper designer reading your design patent application      10 would have understood that the area you have highlighted      11 was soft?      12 A Could you repeat the question? I'm sorry.      13 Q Sure. Back in 1987 do you believe that a diaper      14 designer reading your design patent application would      15 have understood that the area you have highlighted was      16 soft?      17 A Yes.      18 Q How would a diaper designer who read your design      19 application in 1987 have known that the area you have      20 highlighted was soft?      21 A Because it is extra padding, and padding is      22 usually added for comfort.      23 Q How would a person looking at figure 2 know that      24 what you have highlighted is padding?</p>
<p style="text-align: right;">11</p> <p>1 to designate the transcript as confidential pursuant to      2 the terms of the protective order.      3 MR. BAUMGARTNER: That's agreeable to us.      4 MR. MANZO: My name is Edward Manzo. I represent      5 the plaintiff. I'm accompanied by my summer associate,      6 Jeana Lervick. Proceed.      7 MR. BAUMGARTNER: Q Thank you, sir.      8 We're looking at Defendant's Exhibit 3, which      9 is your design patent application. Would you turn over      10 to figure 2, please.      11 A Yes.      12 Q Does figure 2 show a soft padding member in the      13 waist region?      14 A It definitely shows that there is some padding      15 that has been added.      16 Q Does it show a soft padding member?      17 A Well, any padding that's added to a baby diaper      18 is commonly soft. So I would say yes.      19 Q Could you take this pink highlighter and      20 highlight for me the soft padding member in the waist      21 region that is shown in figure 2?      22 A (Indicating.)      23 Q Would you take this blue felt-tip and write soft      24 padding member next to what you've highlighted. You</p>	<p style="text-align: right;">13</p> <p>1 A Well, there's definitely a strip of an extra      2 member affixed to the waistband and to the legs as well.      3 Q And a person of ordinary skill in the diaper art      4 back in 1987, if he saw a strip of an extra member added      5 in the waist region, would know that that was for      6 padding?      7 A If he's an expert, I would hope that he would      8 know it's padding.      9 Q Well, I'm not talking about an expert now. I'm      10 talking about an average diaper designer. Do you      11 believe --      12 A As myself do you mean?      13 Q Well, an average diaper designer back in 1987.      14 Your belief is that if an average diaper designer saw a      15 strip of extra material in the waist region of a diaper,      16 that that average diaper designer would know that that      17 strip was for padding?      18 A Just by looking at the design application, I      19 would say yes. You're talking strictly about figure 2,      20 or are we talking as well figure 3?      21 Q Well, is there a difference in the analysis of      22 the two figures?      23 A Well, I think that figure 3 does show that there      24 is a loop around here of an extra piece of material as</p>

**H I G H L Y C O N F I D E N T I A L**

<p>1   well.</p> <p>2   Q So basically if an average diaper designer back</p> <p>3   in 1987 sees a strip of extra material in the waist</p> <p>4   region, he would know that that strip was soft and was</p> <p>5   padding?</p> <p>6   MR. MANZO: Objection. Is your question limited to</p> <p>7   the drawings of Exhibit 3, or are you asking an abstract</p> <p>8   question about any old diaper with any old strip on it?</p> <p>9   MR. BAUMGARTNER: It's a general question.</p> <p>10   MR. MANZO: Then I object to the question.</p> <p>11   foundation and unduly vague, calls for speculation.</p> <p>12   THE WITNESS: Okay?</p> <p>13   MR. BAUMGARTNER: Q You can now answer. Would you</p> <p>14   like the question read back?</p> <p>15   THE WITNESS: If I may rethink this, I would have to</p> <p>16   say the word soft perhaps is questionable in a design</p> <p>17   application.</p> <p>18   MR. BAUMGARTNER: Q So a person of ordinary skill</p> <p>19   in the art looking at the design application would not</p> <p>20   necessarily know that the region you have highlighted in</p> <p>21   pink is soft?</p> <p>22   A Perhaps not.</p> <p>23   Q But you do believe that a person of ordinary</p> <p>24   skill in the art in 1987, looking at your design</p>	<p>14</p> <p>1   padding, it would provide comfort and, yes, perhaps it</p> <p>2   would be soft.</p> <p>3   Q It might or it might not be soft if it provides</p> <p>4   padding?</p> <p>5   A I would say more than likely it would be soft.</p> <p>6   Q But you wouldn't know for sure?</p> <p>7   A You know by tactile sensation, by touching it</p> <p>8   usually.</p> <p>9   Q Well, you can't touch the padding element --</p> <p>10   A Right.</p> <p>11   Q -- in your design patent application --</p> <p>12   A Right.</p> <p>13   Q -- because it's just a drawing on a piece of</p> <p>14   paper.</p> <p>15   A Well, and then going back to what you were</p> <p>16   saying about padding, padding is usually added for</p> <p>17   comfort. So I'd have to say, yes, more than likely it</p> <p>18   would be soft.</p> <p>19   Q So if a person who's an average diaper designer</p> <p>20   in 1987 sees something in a diaper design that he</p> <p>21   understands to be padding, he may or may not understand</p> <p>22   that the padding would be soft?</p> <p>23   A Perhaps just by looking at the picture itself he</p> <p>24   may not understand that.</p>
<p>15</p> <p>1   application, would understand that the region you've</p> <p>2   highlighted in pink provided padding?</p> <p>3   A Provided padding.</p> <p>4   Q And can you explain for me why that is?</p> <p>5   A Well, it clearly shows that there is a new</p> <p>6   margin on each side of the diaper and on the leg holes</p> <p>7   as well. And it seems to be in a more bold fashion, I</p> <p>8   guess you could say, than the other areas of the diaper</p> <p>9   along the legs and the waistband.</p> <p>10   Q Can something provide padding and not be soft?</p> <p>11   MR. MANZO: Is this question directed to diapers,</p> <p>12   Counsel?</p> <p>13   MR. BAUMGARTNER: No, it's in general.</p> <p>14   THE WITNESS: I believe if you look in the</p> <p>15   dictionary about the word pad, you'll find that it's</p> <p>16   something that's added to provide comfort. I don't have</p> <p>17   a dictionary right in front of me, but I do recall it</p> <p>18   stated something close to that definition.</p> <p>19   MR. BAUMGARTNER: Q If something provides padding,</p> <p>20   is it soft?</p> <p>21   A In order for something to be comfortable, I</p> <p>22   would believe it has to be soft. So the dictionary</p> <p>23   clearly states comfort. So if something was hard, would</p> <p>24   it be comfortable? So I would have to say if it's</p>	<p>15</p> <p>1   Q Is there anything in the text of your design</p> <p>2   patent application that would indicate to a person who</p> <p>3   was an average diaper designer in 1987 that the area</p> <p>4   you've highlighted in pink would be soft?</p> <p>5   A May I read?</p> <p>6   Q Certainly, yes.</p> <p>7   A Okay. Counsel, could you please ask that</p> <p>8   question again?</p> <p>9   Q Certainly. Is there anything in the written</p> <p>10   text of your design application, which is Defendant's</p> <p>11   Exhibit 3, which would have indicated to an average</p> <p>12   diaper scientist in 1987 that the region you've colored</p> <p>13   pink was soft?</p> <p>14   A There is nothing in the text, sir.</p> <p>15   MS. ADDISON: Could I have that answer -- Could I</p> <p>16   have that answer read back, please.</p> <p>17   (Record read.)</p> <p>18   MR. BAUMGARTNER: Q The claim in your design patent</p> <p>19   application appears on the first page of Defendant's</p> <p>20   Exhibit 3. It says there, and I quote, "I claim the</p> <p>21   ornamental design for a disposable diaper as shown in</p> <p>22   the drawings." Do you see that?</p> <p>23   A Yes.</p> <p>24   Q All right. Now, we looked before at Defendant's</p>

**H I G H L Y   C O N F I D E N T I A L**

<p style="text-align: right;">18</p> <p>1   Exhibit 4, which you signed in 1987, and you said there      2   "I have reviewed and understand the contents of the      3   specification, including the claims." Do you recall      4   that?</p> <p>5   <b>A   Yes.</b></p> <p>6   Q   Is it correct that in order to be covered by the      7   claim in your design patent application a diaper would      8   have to have a soft padding member?</p> <p>9   MR. MANZO: Objection, this calls for a legal      10   conclusion. She's not tendered as a patent law expert.</p> <p>11   MR. BAUMGARTNER: Q   As you understood the claim      12   based on your statement to the Patent Office that you      13   read it and understood it.</p> <p>14   <b>A   May I reread it?</b></p> <p>15   Q   Sure.</p> <p>16   <b>A   Sir, if I may answer in this way, which is I      17   never wanted a design application to begin with. I      18   wanted a utility patent. And Mr. Van Eps, who filed      19   this application, he and I were in a disagreement from      20   the beginning.</b></p> <p>21   <b>And I had showed him my disclosure document,      22   which had all of my explanations there before him      23   describing the diaper, and he still insisted on filing      24   as a design application. So that is my answer.</b></p>	<p style="text-align: right;">20</p> <p>1   Q   Why don't you take a moment now to review the      2   declaration and let me know when you're finished.</p> <p>3   <b>A   Okay, I'm finished.</b></p> <p>4   Q   As of today, do you believe the statements in      5   the declaration to be true?</p> <p>6   <b>A   Yes.</b></p> <p>7   Q   Would you take a look at paragraph 2 in your      8   declaration. There you state, and I quote, "on or about      9   October 11, 1988 it came to my attention that Proctor &amp;      10   Gamble Company of Cincinnati, Ohio was distributing      11   disposable diapers which I believe to be an infringement      12   of the claim in my pending application." Do you see      13   that?</p> <p>14   <b>A   Yes.</b></p> <p>15   Q   Did the Proctor &amp; Gamble diaper that you      16   referred to in paragraph 2 of your declaration have a      17   soft padding member?</p> <p>18   <b>A   Yes, it did.</b></p> <p>19   Q   Can you describe the soft padding member?</p> <p>20   <b>A   It was a separate strip that was clearly      21   distinct in the waistband.</b></p> <p>22   Q   What did you do to evaluate the Proctor &amp; Gamble      23   diaper to see if it had the soft padding member you      24   invented?</p>
<p style="text-align: right;">19</p> <p>1   Q   All right. And I appreciate that information.      2   Can you tell me whether you know whether in order to be      3   covered by a claim in the design -- the claim in the      4   design patent application a diaper would have to have a      5   soft padding member?</p> <p>6   <b>A   I'd say yes.</b></p> <p>7   Q   Now, I'm handing you what has been marked as      8   Defendant's Exhibit 5. This is a Declaration in Support      9   of a Petition to Make Special Under Rule 102(d).</p> <p>10   Does your signature appear on the second page      11   of this document?</p> <p>12   <b>A   Yes, it does. Yes, it does.</b></p> <p>13   Q   Did you sign this document on January 24, 1989?</p> <p>14   <b>A   Yes, I did.</b></p> <p>15   Q   Above your signature it states, and I quote, "I      16   declare that all statements made herein are true, and      17   further, that these statements are made with the      18   knowledge that willful false statements and the like so      19   made are punishable by fines or imprisonment", and that      20   continues, closed quotes. Do you see that language?</p> <p>21   <b>A   Yes, I do.</b></p> <p>22   Q   At the time you signed this declaration did you      23   believe the statements in the declaration to be true?</p> <p>24   <b>A   Yes.</b></p>	<p style="text-align: right;">21</p> <p>1   <b>A   To the best of my recollection back then, I      2   believe I cut into the waistband and tore apart the      3   different batting materials to see if there was an extra      4   strip of padding within the waistband.</b></p> <p>5   Q   Once you found the extra strip of padding, did      6   you feel it?</p> <p>7   <b>A   Yes.</b></p> <p>8   Q   Did it feel soft?</p> <p>9   <b>A   Yes, it did.</b></p> <p>10   Q   Did it provide padding?</p> <p>11   <b>A   Yes, it did.</b></p> <p>12   Q   How could you tell that?</p> <p>13   <b>A   I could not only see it, but it felt soft, as I      14   said, to the touch.</b></p> <p>15   Q   So if it feels soft to the touch, it provides      16   padding?</p> <p>17   <b>A   This particular instance it did.</b></p> <p>18   Q   Is there any doubt in your mind, sitting here      19   today, that the Proctor &amp; Gamble diaper referred to in      20   paragraph 2 of your declaration had the soft padding      21   member you invented?</p> <p>22   <b>A   I believe it did.</b></p> <p>23   Q   So there's no doubt in your mind?</p> <p>24   <b>A   It's a long time ago. I vaguely remember the</b></p>

**H I G H L Y   C O N F I D E N T I A L**

<p>1 incident, but I would have to say to the best of my 2 recollection.</p> <p>3 Q All right. Now, attached to your declaration is 4 a picture of a baby wearing this Proctor &amp; Gamble 5 diaper; is that correct?</p> <p>6 A Yes.</p> <p>7 Q Now, did that picture come from a photocopy you 8 made of the diaper bag?</p> <p>9 A Yes.</p> <p>10 Q You bought a bag of these diapers?</p> <p>11 A Yes, I did. And I -- Well, I'm sorry.</p> <p>12 Q I didn't mean to --</p> <p>13 A No --</p> <p>14 Q -- cut you off.</p> <p>15 A And I copied the back of the diaper bag, I 16 believe it was at the Jewel at the time because they had 17 a copy machine right there.</p> <p>18 Q This Jewel was in the Chicago area?</p> <p>19 A In the western suburbs.</p> <p>20 Q Of Chicago?</p> <p>21 A Yes.</p> <p>22 Q And you bought this bag of Proctor &amp; Gamble 23 diapers in October of 1988; is that correct?</p> <p>24 A Yes, that's correct.</p>	<p>22</p> <p>1 me tear this apart a little bit more if I may.</p> <p>2 Q Sure.</p> <p>3 A Yes, there is a soft batting material affixed to 4 kind of like a sticky piece of plastic right behind it.</p> <p>5 Q Do you know what a top sheet is in a diaper?</p> <p>6 A Yes, I do.</p> <p>7 Q That's the material that is in contact with the 8 baby's body when the diaper is being worn?</p> <p>9 A Yes.</p> <p>10 Q Is the soft padding member in Defendant's 11 Exhibit 9 different from the top sheet?</p> <p>12 A They're both soft.</p> <p>13 Q No. Is it a different piece of material than 14 the top sheet?</p> <p>15 A Does not -- Wait. Let me tear it apart a little 16 bit further here.</p> <p>17 No, I don't believe it is.</p> <p>18 Q The top sheet in that diaper is colored white; 19 is that correct?</p> <p>20 A Yes.</p> <p>21 Q And the soft padding member is colored blue?</p> <p>22 A Yes.</p> <p>23 Q The fact that one is white and the other is 24 blue, doesn't that suggest they're physically different</p>
<p>23</p> <p>1 Q So the Proctor &amp; Gamble diapers that are 2 referred to in your declaration were on sale in the 3 United States in October of 1988?</p> <p>4 A Yes.</p> <p>5 Q I'm going to hand you what I have marked as 6 Defendant's Exhibit 9. This is one of the diapers that 7 your counsel produced to us this morning.</p> <p>8 Can you tell me whether this is --</p> <p>9 MR. MANZO: What production number does it bear?</p> <p>10 MR. BAUMGARTNER: I'm not sure. You can look at it 11 and tell us.</p> <p>12 MR. MANZO: It's supposed to have a production 13 number. T2799.</p> <p>14 MR. BAUMGARTNER: Q Thank you.</p> <p>15 Is this one of the Proctor &amp; Gamble diapers 16 referred to in paragraph 2 of your declaration.</p> <p>17 Defendant's Exhibit 5?</p> <p>18 A Yes.</p> <p>19 MR. MANZO: What was the question?</p> <p>20 (Record read.)</p> <p>21 MR. MANZO: Thank you.</p> <p>22 MR. BAUMGARTNER: Q Could you show us where in this 23 diaper the soft padding member is located?</p> <p>24 A I believe it's right here, the blue strip. Let</p>	<p>23</p> <p>1 pieces of material?</p> <p>2 A Well, what they have done is they have 3 interwoven a piece of the plastic material to provide a 4 barrier right there in the waistband strip. So they 5 have weaved it differently.</p> <p>6 They have affixed -- they have gone through the 7 trouble of taking a certain width, which is, what, about 8 an inch-and-a-half, and weaving this soft piece of 9 material to it.</p> <p>10 Q But you've managed to separate in this exhibit 11 the top sheet material from the soft padding material; 12 is that correct?</p> <p>13 A Yes.</p> <p>14 Q Do you know what a back sheet is in a disposable 15 diaper?</p> <p>16 A Yes.</p> <p>17 Q That's the outer cover that touches the parent 18 when the parent is holding the infant?</p> <p>19 A Yes.</p> <p>20 Q All right. Now, is the soft padding member a 21 different piece of material from the back sheet?</p> <p>22 A Oh, yes, it is.</p> <p>23 Q I take it that the soft padding member in this 24 Proctor &amp; Gamble diaper, Exhibit 9, is formed from a</p>

**H I G H L Y C O N F I D E N T I A L**

<p style="text-align: right;">26</p> <p>1 soft substance?</p> <p>2 <b>A Yes.</b></p> <p>3 Q Does the soft padding member in the Proctor &amp;</p> <p>4 Gamble diaper, Defendant's Exhibit 9, present a soft</p> <p>5 surface along at least a portion of the inside of the</p> <p>6 diaper waistband portion?</p> <p>7 <b>A Yes, it does.</b></p> <p>8 Q Does the Proctor &amp; Gamble diaper have a plastic</p> <p>9 layer edge?</p> <p>10 <b>A Yes, it does.</b></p> <p>11 Q Does the soft padding member in the Proctor &amp;</p> <p>12 Gamble diaper present a soft surface along at least a</p> <p>13 portion of the inside of the diaper waistband portion</p> <p>14 despite the plastic layer edge?</p> <p>15 <b>A Despite the plastic layer edge?</b></p> <p>16 Q Yes.</p> <p>17 <b>A Yes, it does.</b></p> <p>18 Q In the Proctor &amp; Gamble diaper is the soft</p> <p>19 padding member parallel to the waistband?</p> <p>20 <b>A Yes, it is.</b></p> <p>21 Q In the Proctor &amp; Gamble diaper does the soft</p> <p>22 padding member provide an additional absorbent barrier</p> <p>23 against leakage?</p> <p>24 <b>A Yes.</b></p>	<p style="text-align: right;">28</p> <p>1 <b>A No.</b></p> <p>2 Q In the Proctor &amp; Gamble diaper does the soft</p> <p>3 padding member present a soft surface at the inside of</p> <p>4 the diaper waistband?</p> <p>5 <b>A Yes.</b></p> <p>6 Q In the Proctor &amp; Gamble diaper does the padding</p> <p>7 member extend along an exposed surface of the waistband?</p> <p>8 <b>A Again, Counsel. Does it extend along the</b></p> <p>9 <b>exposed surface?</b></p> <p>10 Q Of the waistband, yes.</p> <p>11 <b>A Yes, it does.</b></p> <p>12 Q In the Proctor &amp; Gamble diaper does the padding</p> <p>13 member form a soft surface for contact with the skin of</p> <p>14 the individual at at least one of the border edges?</p> <p>15 <b>A Yes, it does.</b></p> <p>16 Q I'd now like to hand you what's been marked as</p> <p>17 Defendant's Exhibit 6. Is this a letter you wrote to an</p> <p>18 examiner in the U.S. Patent Office in February of 1989?</p> <p>19 <b>A Yes.</b></p> <p>20 Q Does your signature appear at the bottom of this</p> <p>21 letter?</p> <p>22 <b>A Yes, it does.</b></p> <p>23 Q I'd like to direct your attention to the third</p> <p>24 paragraph from the end. There you say, and I quote,</p>
<p style="text-align: right;">27</p> <p>1 Q In the Proctor &amp; Gamble diaper is the soft</p> <p>2 padding member located only along the waistband at the</p> <p>3 inside of the diaper?</p> <p>4 <b>A Well, there are other soft padding members in</b></p> <p>5 <b>the diaper.</b></p> <p>6 Q Let's talk about the blue soft padding member</p> <p>7 that you've mentioned to us that's in the waist area.</p> <p>8 Is that blue soft padding member located only along the</p> <p>9 waistband at the inside of the diaper?</p> <p>10 <b>A Yes, it appears to be only at the waist -- Wait</b></p> <p>11 <b>a minute. Excuse me, Counsel, I may have answered that</b></p> <p>12 <b>too quickly. I just want to see how high this goes up.</b></p> <p>13 <b>It goes not -- it not only goes from the</b></p> <p>14 <b>waistband, which is right near the plastic edge, but it</b></p> <p>15 <b>actually goes below the waist area. It goes about an</b></p> <p>16 <b>inch below. I'm referring to this as being the</b></p> <p>17 <b>waistband area and below here as well.</b></p> <p>18 Q Would it be correct to say that the blue soft</p> <p>19 padding member is located substantially only along the</p> <p>20 waistband at the inside of the diaper?</p> <p>21 <b>A It's on the waist area and the abdomen area as</b></p> <p>22 <b>well.</b></p> <p>23 Q So would it be substantially only along the</p> <p>24 waistband?</p>	<p style="text-align: right;">29</p> <p>1 "Huggies and Pampers are among the diaper companies that</p> <p>2 Mr. Van Epps searched that never contained any padding.</p> <p>3 My son used to get skin abrasions from the</p> <p>4 plastic waistband and leg areas. Now, Pampers and</p> <p>5 Huggies are padding those areas." Do you see that?</p> <p>6 <b>A Yes, I do.</b></p> <p>7 Q Did you believe that to be a true statement when</p> <p>8 you wrote it in February of 1989?</p> <p>9 <b>A Yes.</b></p> <p>10 Q Would you turn to the page that I've numbered 31</p> <p>11 down in the bottom right.</p> <p>12 <b>A Okay.</b></p> <p>13 Q Is this a photocopy of the outside of a Huggies</p> <p>14 diaper package?</p> <p>15 <b>A Yes.</b></p> <p>16 Q Did you buy this package of Huggies diapers</p> <p>17 before you sent your letter to the examiner on February</p> <p>18 10, 1989?</p> <p>19 <b>A Yes.</b></p> <p>20 Q Did you buy this package of Huggies diapers here</p> <p>21 in the Chicago area?</p> <p>22 <b>A Yes, I did.</b></p> <p>23 Q There's some handwriting on this page. Is that</p> <p>24 your handwriting?</p>

**H I G H L Y   C O N F I D E N T I A L**

<p>1 another diaper. But it was also a separate strip.      2 And this has more of a -- it's not foam. I'm      3 not really sure exactly what that is, but it's      4 definitely soft.</p> <p>5 Q Since I represent Kimberly-Clark, I was able to      6 ask Kimberly-Clark to supply me with a Huggies diaper      7 made in February of 1989. And I'm going to hand you      8 that diaper now. It's been marked as Defendant's      9 Exhibit 7A, with the representation to you that it was      10 manufactured in February of 1989.</p> <p>11 Can you look at Defendant's Exhibit 7A and tell      12 me whether that resembles the diaper referred to in your      13 letter to the examiner, Defendant's Exhibit 6.</p> <p>14 A May I tear it apart?</p> <p>15 Q Sure.</p> <p>16 A Did you want to see this as well?</p> <p>17 MR. MANZO: You go ahead.</p> <p>18 THE WITNESS: Okay. Now you want me to compare this      19 one with that one, is that what you're asking?</p> <p>20 MR. BAUMGARTNER: Q No. My question is, is      21 Defendant's Exhibit 7A, as best you can recall it,      22 identical to the diaper that you referred to in your      23 letter to the examiner which has been marked as      24 Defendant's Exhibit 6?</p>	<p>34</p> <p>1 to the examiner, Defendant's Exhibit 6?      2 A I would say it's very close to that, yes.      3 Q And you can't point to any differences sitting      4 here today?</p> <p>5 A Not going that far back.</p> <p>6 Q All right. Let me ask you some questions about      7 Defendant's Exhibit 7A, and if you'd like to refer to      8 the diaper in connection with each question, please feel      9 free to do that.</p> <p>10 Can you just confirm for us that Defendant's      11 Exhibit 7A has a soft padding member?</p> <p>12 A Yes, it does.</p> <p>13 Q And that would be in the waist region?</p> <p>14 A It's in the waistband.</p> <p>15 Q And can you describe the soft padding member for      16 us?</p> <p>17 A The soft padding member is right in between the      18 top lining, or the bat. It's adjacent to the plastic      19 edge, and it sits in between the back covering of      20 plastic and in between the top batting portion.</p> <p>21 Q Is the soft padding member in Defendant's      22 Exhibit 7A formed from a soft substance?</p> <p>23 A Yes, it is.</p> <p>24 Q Does the soft padding member present a soft</p>
<p>35</p> <p>1 A I would say it's very similar.      2 Q Are there any differences that you can point to      3 sitting here today?</p> <p>4 A Differences between what?</p> <p>5 Q Defendant's Exhibit --</p> <p>6 A Between that diaper and what I'm referring to      7 here?</p> <p>8 Q -- 7A and the diaper you had in your hands in      9 February of 1989 when you wrote the letter to the      10 examiner which is Defendant's Exhibit 6.</p> <p>11 A That was a long time ago, but, as I said      12 earlier, Huggies made more than one kind of diaper that      13 had separate strips within the waistband. That's the      14 best answer I can give you.</p> <p>15 Q So you can't think of a difference sitting here      16 today, but it's conceivable that there are some?</p> <p>17 A Some differences between the diapers that I was      18 thinking of back then in 1989?</p> <p>19 Q And Defendant's Exhibit 7A, correct.</p> <p>20 A It appears -- to the best of my recollection, it      21 had separate strips just like I'm seeing now before me      22 today.</p> <p>23 Q So as best you can tell, Defendant's Exhibit 7A      24 embodies the diapers that you had in 1989 when you wrote</p>	<p>37</p> <p>1 surface along at least a portion of the inside of the      2 diaper waistband portion?</p> <p>3 A The waistband portion, yes.</p> <p>4 Q Does this diaper have a plastic layer edge?</p> <p>5 A Yes, it does.</p> <p>6 Q Does the soft padding member present a soft      7 surface along at least a portion of the inside of the      8 diaper waistband portion despite the plastic layer edge?</p> <p>9 A Yes.</p> <p>10 Q Now, can you tell me whether the soft padding      11 member is different from the top sheet, made from a      12 different piece of material?</p> <p>13 A Yes. Well, made from a different piece of      14 material? I can't really say because I'm not an expert      15 in all different types of materials, but it is soft.</p> <p>16 The top sheet is soft. And it could be made of      17 something different. I just don't know that. But I      18 know it is soft.</p> <p>19 Q I don't think I made my question clear. Putting      20 aside whether the material that is used to make the top      21 sheet is the same or different from the material used to      22 make the soft padding member, is the soft padding member      23 physically distinct from the top sheet?</p> <p>24 A Yes, it is.</p>

**H I G H L Y   C O N F I D E N T I A L**

<p style="text-align: right;">30</p> <p>1   <b>A</b> Yes.</p> <p>2   <b>Q</b> Can you read us what the handwriting says?</p> <p>3   <b>A</b> This area has extra padding/now lining I believe it to say.</p> <p>4   <b>Q</b> And what idea did you intend to convey when you wrote that?</p> <p>5   <b>A</b> I was trying to show that there was extra padding in the waistband.</p> <p>6   <b>Q</b> Did the Huggies diaper referred to in your letter to the examiner and shown in this picture that we've been looking at on the page numbered 31, did that Huggies diaper have a soft padding member?</p> <p>7   <b>A</b> Yes, it did.</p> <p>8   <b>Q</b> Where was the soft padding member located?</p> <p>9   <b>A</b> Inside the waistband.</p> <p>10   <b>Q</b> Can you describe the soft padding member as you recall it?</p> <p>11   <b>A</b> From what I remember, it was different than the Pampers. I believe at that time it was a more distinct strip. The strips not being identical, of course, referring to Pampers and Huggies.</p> <p>12   <b>Q</b> How did you know that the strip in the Huggies diaper was soft?</p> <p>13   <b>A</b> I tore it apart as well.</p>	<p style="text-align: right;">32</p> <p>1   Defendant's Exhibit 7. This, again, is one of the diapers that your counsel produced for us this morning.</p> <p>2   Can you tell us whether this is a sample of the Huggies diaper referred to in your letter to the examiner. Defendant's Exhibit 6?</p> <p>3   <b>A</b> This one's marked 1998. It seems very similar.</p> <p>4   And here is the extra padding member, the green piece here.</p> <p>5   No, not the green piece, excuse me. It is the white piece. Correction on there. In front of this green area.</p> <p>6   <b>Q</b> Now, Defendant's Exhibit 7 has got a little green piece of paper stapled to it that says Huggies 1998. Do you know whose handwriting appears on that green sheet?</p> <p>7   <b>A</b> I have to look at it again. I believe it might be -- That is not mine. I do not write like that.</p> <p>8   <b>Q</b> Do you know where that green sheet of paper came from?</p> <p>9   <b>A</b> I'm not exactly --</p> <p>10   <b>MR. MANZO:</b> Don't all the diapers come with that?</p> <p>11   <b>THE WITNESS:</b> I'm not exactly sure. I can't remember who affixed this to the diaper.</p> <p>12   <b>MR. BAUMGARTNER:</b> Q But from looking at this diaper</p>
<p style="text-align: right;">31</p> <p>1   <b>Q</b> And you felt it?</p> <p>2   <b>A</b> Yes.</p> <p>3   <b>Q</b> And it felt soft to you?</p> <p>4   <b>A</b> It felt soft.</p> <p>5   <b>Q</b> How did you know that that strip was padding?</p> <p>6   <b>A</b> Because, as I said before, in the dictionary term you add something to provide padding. So it was clearly added in the waistband.</p> <p>7   <b>Q</b> Did it provide cushioning in the waist area?</p> <p>8   <b>A</b> Yes.</p> <p>9   <b>Q</b> Now, thinking back on the Huggies diaper referred to in your letter to the examiner, Defendant's Exhibit 6, is there any doubt in your mind that this diaper had the sort of soft padding member that you invented?</p> <p>10   <b>A</b> Is there any doubt that this particular diaper on page 31?</p> <p>11   <b>Q</b> Yes, correct.</p> <p>12   <b>A</b> I believe -- at the time I believe it to have the soft padding member.</p> <p>13   <b>Q</b> And sitting here today, is that still your belief?</p> <p>14   <b>A</b> Yes.</p> <p>15   <b>Q</b> I'm going to hand you what's been marked as</p>	<p style="text-align: right;">33</p> <p>1   your recollection would be that it has the same soft padding member that you saw in the diaper that you referred to in your letter to the examiner, Defendant's Exhibit 6?</p> <p>2   <b>A</b> Ask that again, Counsel.</p> <p>3   <b>Q</b> Does Defendant's Exhibit 7 have the same soft padding member that was contained in the Huggies diaper you referred to in your letter to the examiner,</p> <p>4   Defendant's Exhibit 6?</p> <p>5   <b>A</b> Oh, yes.</p> <p>6   <b>Q</b> Is there any difference that you can point to between the Huggies diaper, which is Defendant's Exhibit 7, and the diaper, as you recall it, that is referred to in your letter to the examiner, Defendant's Exhibit 6?</p> <p>7   <b>A</b> Well, this appears to be very close to what I was referring to back then.</p> <p>8   <b>Q</b> Can you think of any differences between Defendant's Exhibit 7 and the diapers that you had in 1989 when you wrote to the examiner?</p> <p>9   <b>A</b> There appear to be another Huggies diaper, and I'm not sure, you know, which one of your diapers it was, because you make several kinds, but it seemed like there might have been a little very soft foam strip as well, but I'm not exactly -- that could have been in</p>

**H I G H L Y   C O N F I D E N T I A L**

<p style="text-align: right;">38</p> <p>1 Q Is the soft padding member physically distinct 2 from the back sheet?</p> <p>3 A Yes, it is.</p> <p>4 Q In the Huggies diaper, Defendant's Exhibit 7A, 5 is the soft padding member parallel to the waistband?</p> <p>6 A Yes, it is.</p> <p>7 Q Does the soft padding member provide an 8 additional absorbent barrier against leakage?</p> <p>9 A Yes.</p> <p>10 Q Is the soft padding member located only along 11 the waistband at the inside of the diaper?</p> <p>12 A <b>The soft padding member only located at the 13 waistband? There is a soft padding member in between 14 the leg areas. I just thought that was kind of a 15 general question. Sorry.</b></p> <p>16 Q Let me ask it better. I see the ambiguity here 17 you're concerned about.</p> <p>18 I'm talking now about the blue soft padding 19 member in the waist region.</p> <p>20 A Yes.</p> <p>21 Q With respect to that, is that soft padding 22 member located only along the waistband at the inside of 23 the diaper?</p> <p>24 A <b>Yes, it's only at the waistband.</b></p>	<p style="text-align: right;">40</p> <p>1 A As I said earlier, I was very unhappy that he 2 filed an ornamental design as opposed to a utility 3 patent application.</p> <p>4 Q Do you recall thinking that there was a problem 5 with the design application because it did not indicate 6 where the extra padding in your design was located?</p> <p>7 A I was not happy with the fact that there was no 8 explanation that is provided through a design 9 application as there is in a utility patent.</p> <p>10 Q Did you believe that your attorney should have 11 indicated where the extra padding was located when he 12 wrote the design application?</p> <p>13 A Well, as I said, in a design application that 14 doesn't usually occur, and he and I did have a 15 disagreement about that. But I wanted a filing date as 16 soon as possible, so I went along with what he wanted to 17 do.</p> <p>18 Q If you take a look at Defendant's Exhibit 6, 19 which is this document right here I believe, if you look 20 at the fourth paragraph, you write there "he" -- This is 21 in reference to Mr. Van Epps, your attorney; is that 22 correct?</p> <p>23 A I believe so.</p> <p>24 Q "He should have indicated where the extra</p>
<p style="text-align: right;">39</p> <p>1 Q Now, does that particular soft padding member in 2 the waist region present a soft surface at the inside of 3 the diaper waistband?</p> <p>4 A You said waist region. I consider region 5 continuous space. This is in the waistband.</p> <p>6 Q So --</p> <p>7 A I would have to say region is one thing, 8 waistband, to me, is another.</p> <p>9 Q The soft padding member that we're talking 10 about, does that present a soft surface at the inside of 11 the diaper waistband?</p> <p>12 A At the diaper waistband, yes.</p> <p>13 Q Does the padding member that we're talking about 14 here extend along an exposed surface of the waistband?</p> <p>15 A Extend along the exposed surface?</p> <p>16 Q Yes.</p> <p>17 A Yes, it does.</p> <p>18 Q Does the padding member that we're talking about 19 form a soft surface for contact with the skin of the 20 individual at at least one of the border edges?</p> <p>21 A Yes.</p> <p>22 Q Did you ever think there was a problem with your 23 design application because it did not indicate where the 24 extra padding in your design was located?</p>	<p style="text-align: right;">41</p> <p>1 padding is located." Do you see that?</p> <p>2 A Yes.</p> <p>3 Q This is in reference to the design application 4 that Mr. Van Epps wrote?</p> <p>5 A Right.</p> <p>6 Q Why did you believe that Mr. Van Epps should 7 have indicated where the extra padding is located?</p> <p>8 A Because maybe I failed to mention in this letter 9 that he should have filed the utility patent. Miss 10 Stella Reed and I actually had a conversation, and she 11 clearly let me know that it should have been a utility 12 patent. So I was writing back to her explaining how I 13 was upset with Mr. Van Epps.</p> <p>14 Q And one of the reasons you were upset was 15 because, in your view, he should have indicated in the 16 design application where the extra padding is located?</p> <p>17 A Well, maybe I didn't phrase it right in the 18 letter, sir, but what I meant by this letter was that he 19 basically should have filed a utility patent.</p> <p>20 Q Another concern you had was that you should have 21 urged your patent lawyer to make a better drawing and/or 22 give some detail in your design patent application; is 23 that right?</p> <p>24 A Again, you know, design patent application I</p>

**H I G H L Y C O N F I D E N T I A L**

<p style="text-align: right;">42</p> <p>1 <b>I realize doesn't provide any explanation.</b>      2 Q Any explanation of what?      3 A <b>Of the diaper and the different features of the diaper.</b>      4 Q And that was true of your design patent application?      5 A Yes.      6 Q I'm going to hand you a piece of sandpaper, which I've marked as Defendant's Exhibit 10. Now, the piece of sandpaper has a paper side and an abrasive side. Would you consider either side to be soft?      7 A No.      8 Q Would you consider this piece of sandpaper to provide padding on either side?      9 A <b>That depends. It depends on what you're trying to provide padding for I would think.</b>      10 Q Well, let's suppose we're trying to provide padding for the waistband of a disposable diaper worn by infants.      11 A <b>You wouldn't put in sandpaper.</b>      12 Q So this piece of sandpaper would not provide padding in that context?      13 A <b>No, it would not.</b>      14 Q Do you consider this piece of sandpaper to be</p>	<p style="text-align: right;">44</p> <p>1 bag that I borrowed from my wife this morning. I guess she's not going to get it back. But it's just a regular plastic garbage bag.      2 Would you consider the surface of this plastic garbage bag to be soft?      3 A <b>It's somewhat soft.</b>      4 Q And how do you know it's soft?      5 A <b>By touching it.</b>      6 Q And what is it when you touch it that tells you it's soft?      7 A <b>By the way it feels.</b>      8 Q Would you consider the plastic garbage bag to provide padding?      9 A <b>It could.</b>      10 Q Would it provide padding in the context of a waist in a disposable diaper?      11 A <b>It could.</b>      12 Q Would you consider the plastic garbage bag to be brittle?      13 A No.      14 Q Would you consider the plastic garbage bag to be hard?      15 A <b>No.</b>      16 Q Is it true that a material like the plastic used</p>
<p style="text-align: right;">43</p> <p>1 brittle?      2 A <b>Brittle?</b>      3 Q Yes.      4 A <b>Somewhat.</b>      5 Q Would you consider this piece of sandpaper to be hard?      6 A <b>Hard? I would say stiff.</b>      7 Q You wouldn't say hard?      8 A <b>Not as hard as the table, but stiff.</b>      9 Q Can you fold this piece of sandpaper?      10 A Yes.      11 Q So it would be correct to say that this piece of sandpaper is capable of curvature?      12 A Yes.      13 Q Now, it would be possible to attach a strip of sandpaper to the waist region of a diaper, correct?      14 A <b>It would be possible?</b>      15 Q Yes.      16 A Yes.      17 Q And one could wrap the strip of sandpaper from the inside to the outside of the diaper?      18 A Yes.      19 Q I'm going to hand you what's been marked as Defendant's Exhibit 11. This is just a plastic garbage</p>	<p style="text-align: right;">45</p> <p>1 in this garbage bag has been used to make the outer cover of disposable diapers?      2 A <b>It's very similar, yes.</b>      3 Q Now if you feel the edge of the plastic garbage bag, is the edge soft?      4 A <b>Somewhat.</b>      5 Q Would you consider that edge to be abrasive?      6 A <b>It depends on what you would affix to that edge.</b>      7 Q It might become abrasive if you were to affix elastic to it. Then it might be abrasive then.      8 Q Now, this plastic garbage bag is capable of curvature; is that correct?      9 A Yes.      10 Q It would be possible to attach a strip of the garbage bag material to the waist region of a diaper, correct?      11 A Yes.      12 Q One could wrap the strip of garbage bag material from the inside to the outside of the diaper?      13 A Yes.      14 Q If one wrapped the strip of garbage bag material from the inside to the outside of the diaper in the waist region, would it provide padding?      15 A <b>It could.</b></p>

## HIGHLY CONFIDENTIAL

<p style="text-align: right;">46</p> <p>1 Q Would it provide a cushion effect?</p> <p>2 A It could.</p> <p>3 Q Do you know what -- Strike that. We've talked</p> <p>4 about what a diaper liner is.</p> <p>5 A Uh-huh.</p> <p>6 Q In your experience as a diaper designer, is</p> <p>7 diaper liner material always soft?</p> <p>8 A Is diaper liner material always soft? I would</p> <p>9 say now they've made great improvements and they're more</p> <p>10 careful with the materials they use.</p> <p>11 Q Was there a time when -- Strike that. Have you</p> <p>12 ever felt diaper liner material that was not soft?</p> <p>13 A When it became more abrasive is when it was</p> <p>14 affixed to elastic, bringing the threads and the fibers</p> <p>15 closer together, giving it a rougher surface.</p> <p>16 Q And when is the last time you touched diaper</p> <p>17 liner material that you thought was not soft?</p> <p>18 A The last time when I thought it was not soft?</p> <p>19 Back in 1986 when I came up with the idea to add extra</p> <p>20 padding.</p> <p>21 Q Was there a particular product that had diaper</p> <p>22 liner material that was not soft?</p> <p>23 A A particular product? Yes, I believe it was</p> <p>24 Pampers at that time.</p>	<p style="text-align: right;">48</p> <p>1 whether it did or did not?</p> <p>2 A Make it soft? Or provide padding you're saying?</p> <p>3 Q Provide padding, yes.</p> <p>4 A I imagine if it wasn't present at all, it</p> <p>5 wouldn't provide any padding.</p> <p>6 Q If the material was present and it had the</p> <p>7 finish of diaper liner material, would it provide</p> <p>8 padding?</p> <p>9 A Yes, because, again, as I said, to pad is to add</p> <p>10 something.</p> <p>11 Q Let me hand you what's been marked as</p> <p>12 Defendant's Exhibit 8. Can you take a look at this</p> <p>13 diaper, and if you'd like to tear it apart, please feel</p> <p>14 free to do that. What I'd like you to do is tell me</p> <p>15 whether this diaper has a soft padding member.</p> <p>16 MR. MANZO: What exhibit number is that?</p> <p>17 MR. BAUMGARTNER: It is exhibit, beg your pardon, 8.</p> <p>18 MR. MANZO: Thank you.</p> <p>19 THE WITNESS: Appears to have a soft padding member.</p> <p>20 MR. BAUMGARTNER: Q Can you describe for us what</p> <p>21 you believe the soft padding member to be?</p> <p>22 A Well, once you take a soft piece of material,</p> <p>23 such as this is, it's not hard, and then you also add</p> <p>24 another piece of material to it, it becomes soft.</p>
<p style="text-align: right;">47</p> <p>1 Q And was the diaper liner material not soft in a</p> <p>2 certain region of the diaper or throughout the area</p> <p>3 where the diaper liner material could be touched?</p> <p>4 A It was not particularly soft in the waistband</p> <p>5 area where I felt it should have been softer.</p> <p>6 Q Let me ask you to look once more at -- Strike</p> <p>7 that.</p> <p>8 If a material has the finish of diaper liner</p> <p>9 material -- Do you understand what that means?</p> <p>10 A Diaper liner material?</p> <p>11 Q Yes.</p> <p>12 A Yes.</p> <p>13 Q You understand what it means to talk about a</p> <p>14 material having a certain finish?</p> <p>15 A Uh-huh.</p> <p>16 Q Yes?</p> <p>17 A Yes.</p> <p>18 Q If material has the finish of diaper liner</p> <p>19 material, will it provide padding?</p> <p>20 A It could.</p> <p>21 Q And when you say it could, what do you mean?</p> <p>22 A It could. It's not limited to thickness</p> <p>23 necessarily.</p> <p>24 Q What would be the factors that would affect</p>	<p style="text-align: right;">49</p> <p>1 Q So the soft padding member is a material that is</p> <p>2 between the top sheet and the back sheet in the waist</p> <p>3 region and it has vertical lines of perforations?</p> <p>4 A Well, I would -- the perforations, if this stood</p> <p>5 by itself without this material to it, it could be</p> <p>6 rougher as you could see because of the holes. But</p> <p>7 because this is affixed to it, it makes it soft.</p> <p>8 Q But the material with the holes is what you</p> <p>9 would consider the soft padding member?</p> <p>10 A Yes, it's the padding member.</p> <p>11 Q In Defendant's Exhibit 8, is the soft padding</p> <p>12 member that we've been discussing physically distinct</p> <p>13 from the top sheet?</p> <p>14 A Yes, the material on the inside seems to be</p> <p>15 physically distinct.</p> <p>16 Q Is the soft padding member we've been discussing</p> <p>17 physically distinct from the back sheet?</p> <p>18 A May I see that one more time, Edward? Thank</p> <p>19 you.</p> <p>20 Yes, it's distinct from the back sheet as well.</p> <p>21 Q Is there any doubt in your mind that this diaper</p> <p>22 has the sort of soft padding member that you invented?</p> <p>23 A I think it does.</p> <p>24 Q Is the soft padding member we've been discussing</p>

**H I G H L Y   C O N F I D E N T I A L**

<p style="text-align: right;">50</p> <p>1 formed from a soft substance?</p> <p>2 <b>A Yes.</b></p> <p>3 Q Does a soft padding member present a soft</p> <p>4 surface along at least a portion of the inside of the</p> <p>5 diaper waistband portion?</p> <p>6 <b>A Yes.</b></p> <p>7 Q Does this diaper have a plastic layer edge?</p> <p>8 <b>A Yes.</b></p> <p>9 Q Does the soft padding member in this diaper</p> <p>10 present a soft surface along at least a portion of the</p> <p>11 inside of the diaper waistband portion despite the</p> <p>12 plastic layer edge?</p> <p>13 <b>A Yes.</b></p> <p>14 Q In this diaper is the soft padding member</p> <p>15 parallel to the waistband?</p> <p>16 <b>A Yes.</b></p> <p>17 Q In this diaper does the soft padding member</p> <p>18 provide an additional absorbent barrier against leakage?</p> <p>19 <b>A Yes.</b></p> <p>20 Q In this diaper is the soft padding member</p> <p>21 located only along the waistband at the inside of the</p> <p>22 diaper?</p> <p>23 <b>A Only at the waistband? It appears to be only on</b></p> <p>24 <b>the waistband.</b></p>	<p style="text-align: right;">52</p> <p>1 <b>A Uh-huh.</b></p> <p>2 Q You understand that at the end of the patent are</p> <p>3 a series of numbered paragraphs called claims?</p> <p>4 <b>A Yes.</b></p> <p>5 MR. MANZO: Counsel, we've been going about an hour.</p> <p>6 In your transition to another topic, would it be</p> <p>7 appropriate for a break at this point?</p> <p>8 MR. BAUMGARTNER: Certainly.</p> <p>9 THE VIDEOGRAPHER: Off the record 11:09.</p> <p>10 (Recess was taken.)</p> <p>11 THE VIDEOGRAPHER: On the record 11:26.</p> <p>12 MR. BAUMGARTNER: Q I'm going to hand you</p> <p>13 Defendant's Exhibit 7 once again. Can you tell me</p> <p>14 whether this exhibit has soft padding members located</p> <p>15 along the leg holes to provide a soft surface at the leg</p> <p>16 holes?</p> <p>17 <b>A No.</b></p> <p>18 Q Let me hand you Defendant's Exhibit 7A. Does</p> <p>19 Defendant's Exhibit 7A have soft padding members located</p> <p>20 along the leg holes to provide a soft surface at the leg</p> <p>21 holes?</p> <p>22 <b>A No.</b></p> <p>23 Q Let me hand you Defendant's Exhibit 8. Does</p> <p>24 that have soft padding members located along the leg</p>
<p style="text-align: right;">51</p> <p>1 Q In this diaper does the soft padding member</p> <p>2 present a soft surface at the inside of the diaper</p> <p>3 waistband?</p> <p>4 <b>A Yes.</b></p> <p>5 Q Does the padding member extend along an exposed</p> <p>6 surface of the waistband?</p> <p>7 <b>A Yes.</b></p> <p>8 Q Can you explain for us why that is?</p> <p>9 <b>A Well, here's your exposed surface, and it</b></p> <p>10 <b>extends inside of that exposed surface, right up here to</b></p> <p>11 <b>the edge.</b></p> <p>12 Q So the exposed surface is the very top of the</p> <p>13 waistband?</p> <p>14 <b>A Well, yes. The exposed area, of course, comes</b></p> <p>15 <b>all the way up to the edge, as well as the inside</b></p> <p>16 <b>padding member does.</b></p> <p>17 Q In this diaper does the padding member form a</p> <p>18 soft surface for contact with the skin of the individual</p> <p>19 at at least one of the border edges?</p> <p>20 <b>A Yes.</b></p> <p>21 Q I'd like to ask you to look again now at</p> <p>22 Defendant's Exhibit 1, which is the --</p> <p>23 <b>A Yes,</b></p> <p>24 Q -- patent you have filed suit on.</p>	<p style="text-align: right;">53</p> <p>1 holes to provide a soft surface at the leg holes?</p> <p>2 <b>A No.</b></p> <p>3 Q Let me hand you Defendant's Exhibit 9. Does</p> <p>4 that have soft padding members located along the leg</p> <p>5 holes to provide a soft surface at the leg holes?</p> <p>6 <b>A No.</b></p> <p>7 Q Let me hand you Defendant's Exhibit 12. Does</p> <p>8 that have soft padding members located along the leg</p> <p>9 holes to provide a soft surface at the leg holes?</p> <p>10 <b>A Yes.</b></p> <p>11 Q And what is the soft padding member located</p> <p>12 along the leg holes that provides --</p> <p>13 <b>A May I -- Okay.</b></p> <p>14 Q -- a soft surface at the leg holes?</p> <p>15 <b>A In this portion there is no extra padding.</b></p> <p>16 <b>T</b>here is an extra layer that's not affixed to it, but</p> <p>17 it's --</p> <p>18 Q You're referring to the elasticized flap</p> <p>19 that's --</p> <p>20 <b>A Yes.</b></p> <p>21 Q -- colored blue?</p> <p>22 <b>A That does touch the leg hole area.</b></p> <p>23 Q You believe that elasticized flap that's colored</p> <p>24 blue is located along the leg holes?</p>

## HIGHLY CONFIDENTIAL

<p style="text-align: right;">54</p> <p>1 A Yes.</p> <p>2 Q And you believe it provides a soft surface at 3 the leg holes?</p> <p>4 A Yes.</p> <p>5 Q Let's go back to Defendant's Exhibit 7A. Does 6 that have a padding member that is adjacent to and does 7 not overlap the absorbent core of the diaper?</p> <p>8 A Adjacent to and does not overlap? Well, it 9 doesn't seem to overlap.</p> <p>10 Q And you know what I mean when I say the 11 absorbent core of the diaper?</p> <p>12 A Yes, I do.</p> <p>13 Q That's the area that has fluff padding and 14 currently absorbent material that absorbs the liquid 15 body exudates from the baby?</p> <p>16 A Yes.</p> <p>17 Q Let me hand you Defendant's Exhibit 8. In 18 Defendant's Exhibit 8 is the padding member adjacent to 19 the absorbent core?</p> <p>20 A Which padding member are you speaking of?</p> <p>21 Q The one in the waist area.</p> <p>22 A Is it adjacent to the absorbent core?</p> <p>23 Q Yes.</p> <p>24 A It's just above the adjacent core.</p>	<p style="text-align: right;">56</p> <p>1 Q Would it be correct to say that the padding 2 member is adjacent to the absorbent core?</p> <p>3 A Is it next to it?</p> <p>4 Q Yes.</p> <p>5 MR. MANZO: Objection. Are you using the word 6 adjacent as it's used in the claims or in normal English 7 parlance or something different?</p> <p>8 MR. BAUMGARTNER: Q Just normal English parlance 9 for the moment.</p> <p>10 A Well, if you stand next to a desk -- if there's 11 like two people standing next to a desk, you're adjacent 12 to it. If you're above it, are you really adjacent to 13 it? I would say it's not directly adjacent to it. It's 14 above it.</p> <p>15 Q All right. Is it true that the padding member 16 in Defendant's Exhibit 7 does not overlap the absorbent 17 core?</p> <p>18 A It does not overlap.</p> <p>19 Q All right. Let me hand you Defendant's Exhibit 20 8. Is the padding member in that diaper adjacent to the 21 absorbent core?</p> <p>22 A Again, it's above the absorbent core. Here's 23 the absorbent core, and it's just above it.</p> <p>24 Q Well, the distance is about a quarter-of-an-inch</p>
<p style="text-align: right;">55</p> <p>1 Q Just above the absorbent core?</p> <p>2 A Yes.</p> <p>3 Q Does the padding member overlap the absorbent 4 core?</p> <p>5 A Does the padding member overlap it?</p> <p>6 Q Yes.</p> <p>7 A No.</p> <p>8 Q Let me hand you -- let me hand you Defendant's 9 Exhibit 7. Is the padding member in the waist region in 10 Defendant's Exhibit 7 adjacent to the absorbent core?</p> <p>11 A Again, you keep saying region. I'm not going to 12 agree that it's in the waist region. It's in the 13 waistband.</p> <p>14 Q Let me restate the question --</p> <p>15 A Okay.</p> <p>16 Q -- and try to avoid that issue.</p> <p>17 A Okay.</p> <p>18 Q Is the padding member in the waist area adjacent 19 to the absorbent core?</p> <p>20 A It's in the waistband portion above the adjacent core.</p> <p>22 Q So it's adjacent to the absorbent core?</p> <p>23 A I'm sorry, I said it's in the waistband area.</p> <p>24 Above the core is what I meant to say.</p>	<p style="text-align: right;">57</p> <p>1 from the top of the absorbent core and the bottom of the 2 padding member; is that correct?</p> <p>3 A That's right.</p> <p>4 Q And if something is a quarter-of-an-inch apart, 5 you would say it's not adjacent to it?</p> <p>6 A Well, as I said earlier, if you're above it, are 7 you really adjacent to it? I would have to say you have 8 to be directly next to it to be adjacent to it.</p> <p>9 Q So it has to be touching?</p> <p>10 MR. MANZO: Objection, argumentative.</p> <p>11 THE WITNESS: So it has to be touching? No, you 12 don't have to be touching.</p> <p>13 MR. BAUMGARTNER: Q Can you give me some idea of 14 how far apart something has to be in order not to be 15 adjacent?</p> <p>16 A I see what you're saying. Again, I don't know 17 if you can distinguish if something is above it if it's 18 really adjacent to it. I picture adjacent being next to 19 it, which is different than being above it.</p> <p>20 Q Well, my pen is sitting --</p> <p>21 A It's like spacial concepts when you're teaching 22 children; above, below, side.</p> <p>23 Q My pen is above the desk when it sits on the 24 desk. Isn't it true --</p>

**H I G H L Y C O N F I D E N T I A L**

<p style="text-align: center;">58</p> <p>1    A It's on top, yes.      2    Q Isn't it true my pen is adjacent to the desk?      3    A I can only answer it the same way I've answered      4    it previously.      5    Q You wouldn't consider that to be adjacent?      6    A It's on top of the desk.      7    Q All right. And it would not be adjacent to the      8    desk as you use that term, or as you understand it?      9    A As I'm visualizing the term adjacent, no.      10   Q In Defendant's Exhibit 8 does the padding member      11   overlap the absorbent core?      12   A No, it does not.      13   Q Let me hand you Defendant's Exhibit 9. Is the      14   padding member in that product adjacent to the absorbent      15   core?      16   A Yes, it is.      17   Q Does the padding member in that product overlap      18   the absorbent core?      19   A Yes, it does.      20   Q Let me hand you what's been marked as      21   Defendant's Exhibit 13.      22   Can you tell me whether Defendant's Exhibit 13      23   has soft padding members located along the leg holes to      24   provide a soft surface at the leg holes?</p>	<p style="text-align: center;">60</p> <p>1    Q Yes.      2    A I guess you could consider it a flap.      3    Q And the elasticized flap you would view as a      4    soft padding member?      5    A This provides a soft surface.      6    Q So it is a soft padding member?      7    A I would say yes.      8    Q And the soft padding member in Defendant's      9    Exhibit 13 is located along the leg holes?      10   A Yes.      11   Q Would it be correct that the soft padding member      12   located along the leg holes in Defendant's Exhibit 13      13   provides a soft surface at the leg holes?      14   A Yes.      15   Q I'd like to now ask you to direct your attention      16   to Defendant's Exhibit 1, which is the patent that is in      17   dispute in this case.      18   You understand that at the end of the patent      19   are a series of numbered paragraphs called claims?      20   A Yes.      21   Q Would you take a look at claim 1.      22   A Yes.      23   Q You've read claim 1 before?      24   A Yes.</p>
<p style="text-align: center;">59</p> <p>1    MR. MANZO: Counsel, can you identify Exhibit 13 for      2    the record?      3    MR. BAUMGARTNER: Q It's a diaper which has a taped      4    landing zone with bears holding balloons. And the      5    question is, does it have soft padding members located      6    along the leg holes to provide a soft surface at the leg      7    holes?      8    A It has a soft layer, but it's not distinct.      9    It's not separate. It sits on top of it as the diaper      10   closes and once the leg is inside the diaper.      11   Q Does it have a soft -- Strike that. Does it      12   have soft padding members located along the leg holes to      13   provide a soft surface at the leg holes?      14   A There's some additional material there which can      15   provide some padding, but as I said, it's not separate      16   or distinct. But there is some extra material there      17   once it is closed.      18   If you're talking about this portion of the      19   diaper, there is none. But once this lays on top of it,      20   I would say that there is. I have to distinguish it      21   that way.      22   Q So, again, this diaper has got an elasticized      23   flap next to the leg opening?      24   A An elasticized flap?</p>	<p style="text-align: center;">61</p> <p>1    Q Would you say you're generally familiar with the      2    terminology that's used in claim 1?      3    A Yes.      4    Q Claim 1 talks about a soft padding member. Do      5    you see that?      6    A Yes.      7    Q In the diaper you invented is there a soft      8    padding member?      9    A Yes.      10   Q What is the function of the soft padding member      11   in the diaper you invented?      12   A What is the soft padding member?      13   Q No. The question is, what is the function of      14   the soft padding member?      15   A Oh, it's to provide padding, and you could say      16   even a little bit of cushioning, but it's not limited to      17   thickness.      18   If you look up in the dictionary, pad supports      19   cushion, cushion supports the word pad. It's a separate      20   strip located in the waistband specifically and is      21   distinct, meaning it is separate, from the other      22   portions of the waistband.      23   Q In your invention why does the soft padding      24   member have to be soft?</p>

**H I G H L Y C O N F I D E N T I A L**

<p style="text-align: right;">62</p> <p>1    A Because you would not put anything hard in a      2 baby diaper.      3    Q And that's because you don't want to abrade the      4 baby's skin?      5    A Correct.      6    Q Now, in the Pampers product that had the liner      7 material that was not soft --      8    A Right.      9    Q -- in your experience, did that cause skin      10 abrasion to babies?      11   A At that time -- Yes. Just to answer your      12 question, yes.      13   Q Now, in your invention how does the soft padding      14 member provide padding?      15   A Because, as I said, it's a separate strip that      16 provides comfort or cushioning, not limited to      17 thickness, making it more comfortable to the wearer.      18   Q Now, you said that the soft padding member can      19 provide padding and it's not limited to thickness. Can      20 you explain a little what you mean?      21   A Not limited to any specific size dimension, such      22 as, you know, if you want to just say quarter-of-an-inch      23 or an eighth-of-an-inch. It's not specific as to what      24 thickness it's supposed to be.</p>	<p style="text-align: right;">64</p> <p>1    whether that material was soft or not?      2    MR. MANZO: Could I have that question read back,      3 please.      4    (Record read.)      5    THE WITNESS: Are you speaking of the material I'm      6 referring to in my patent, or in the abrasions that I      7 was speaking of back in --      8    MR. BAUMGARTNER: Q No, just any material. Let's      9 suppose we give them -- there's a panel of 10 diaper      10 designers. We give them a material and we say is this      11 material soft? And then maybe we give them another      12 material and we say is this material soft, and we do      13 this for 10 different materials.      14   Is it your expectation that for each material      15 all 10 diaper designers would reach the same conclusion      16 after feeling the material?      17   A They may not reach the same conclusion.      18   Q Why do you say that?      19   A Well, just depends on I guess their tactile      20 sensation of the particular material they're feeling.      21   Q And that's going to differ --      22   A They may say this is a little soft, but it's      23 stiff, it's not appropriate for a baby diaper. I think      24 that's too broad of a question.</p>
<p style="text-align: right;">63</p> <p>1    Q Now in order for something to provide padding,      2 does it have to have resiliency in the sense that you      3 could press down on it and it will give?      4    A I'm not so sure if -- I would think it would      5 have some give to it, but not always.      6    Q So you can envision materials that would provide      7 padding and wouldn't have give?      8    A Let me think about that for a moment. Yes. A      9 situation in my Jeep, my leather seats happen to be very      10 hard. There is padding in there. And it really doesn't      11 have a lot of give to it. It appears to be very firm      12 when you sit on it.      13   Q Now, if a person is a diaper designer and      14 looking at a particular material, how can that person      15 tell whether that material is soft as that word is used      16 in your patent?      17   A Well, by tactile sensation is how you know it's      18 soft.      19   Q What do you look for?      20   A Smoothness, soft, sort of -- comfortable I guess      21 is a good word for padding.      22   Q Is it your expectation that if the same material      23 were given to 10 different diaper designers back in the      24 late 1980s, that they would all be of one opinion as to</p>	<p style="text-align: right;">65</p> <p>1    Q The tactile sensation of one person might be      2 different from the tactile sensation --      3    A For different reasons. Like I said, it may not      4 have applicability to these diaper people or experts or      5 who you're referring to.      6    Q You need to let me finish my question or the      7 poor court reporter doesn't make a complete record. So      8 let me just try that again if I could.      9    A Okay.      10   Q Is it the case that different diaper scientists      11 will have different degrees of tactile sensation so that      12 one scientist could feel a material and say, well, this      13 is on the borderline, but I wouldn't call this soft, and      14 another person could feel the material and say, well,      15 this is on the borderline, but I would say it is soft?      16   MR. MANZO: Objection, calls for speculation.      17   THE WITNESS: I still think that you could have      18 varying degrees of what is soft or what isn't. But I      19 would have to say that they should come to the same      20 conclusion that it would be soft, which is appropriate      21 for a baby diaper.      22   MR. BAUMGARTNER: Q So if you gave the 10 diaper      23 designers 10 different materials, you think they would      24 be able to agree on each material as to whether it was</p>

**H I G H L Y   C O N F I D E N T I A L**

<p style="text-align: right;">66</p> <p>1 soft or not?</p> <p>2 <b>A</b> I will say that they should be able to agree if</p> <p>3 it's soft. They may have some other factors to it, but</p> <p>4 I would have to say they may agree that it's soft.</p> <p>5 Q They may agree. Is it possible they could</p> <p>6 disagree?</p> <p>7 <b>A</b> I guess it depends on the material.</p> <p>8 Q Can you think of a material that a diaper</p> <p>9 designer might have trouble telling whether it was soft</p> <p>10 or not or that the different diaper designers might</p> <p>11 disagree on?</p> <p>12 <b>A</b> Can I think of one? I do know that not all</p> <p>13 polyurethane foams are not always soft. Some are harder</p> <p>14 than others.</p> <p>15 Q So there might be a poly-foam material which one</p> <p>16 diaper designer would say is soft and another diaper</p> <p>17 designer would say after he felt it --</p> <p>18 <b>A</b> Was not soft enough.</p> <p>19 Q -- was not soft enough?</p> <p>20 <b>A</b> Possibly.</p> <p>21 Q Do you think that the scientists at Proctor &amp;</p> <p>22 Gamble who came up with the diaper liner material that</p> <p>23 you believed was not soft would have shared your view?</p> <p>24 MR. MANZO: Objection, presupposes that it was</p>	<p style="text-align: right;">68</p> <p>1 diaper material after it had been incorporated into a</p> <p>2 diaper in order to tell whether, in that particular</p> <p>3 application, the material was soft or not?</p> <p>4 <b>A</b> We have to wait until it's completely assembled</p> <p>5 is what you're saying? No, you wouldn't have to wait I</p> <p>6 think until it's completely assembled.</p> <p>7 I think you would have to have some foresight</p> <p>8 that maybe once it's mixed with other materials, it</p> <p>9 could possibly change the consistency of it. You would</p> <p>10 have to do that beforehand.</p> <p>11 Q So a material that was soft when you first felt</p> <p>12 it, after it was put into a diaper may no longer feel</p> <p>13 soft?</p> <p>14 <b>A</b> Depending on how it's manufactured.</p> <p>15 Q So depending on how it's manufactured, you could</p> <p>16 take a soft material and after it's in the diaper it</p> <p>17 would no longer be soft?</p> <p>18 <b>A</b> As I said, I'm just going to repeat, you</p> <p>19 could -- if you didn't have the foresight to envision</p> <p>20 what the outcome is going to be, yes, it could be harder</p> <p>21 or more abrasive than you anticipated if you didn't have</p> <p>22 the foresight to begin with.</p> <p>23 Q We've talked about the Proctor &amp; Gamble diaper</p> <p>24 liner material which in the region of the elastics was</p>
<p style="text-align: right;">67</p> <p>1 scientists who came up with that.</p> <p>2 THE WITNESS: I would have to say, as I said</p> <p>3 earlier, just going back to once this material was</p> <p>4 interwoven in the elastic -- We know that elastic can be</p> <p>5 stiff, it can be somewhat abrasive. Once it was woven</p> <p>6 into that elasticized material, it was really not soft</p> <p>7 at that time, as soft as it should be for a baby diaper.</p> <p>8 MR. BAUMGARTNER: Q So it's not enough to feel a</p> <p>9 material before it's put into the diaper; you have to</p> <p>10 wait and have the diaper assembled and then feel it in</p> <p>11 order to --</p> <p>12 <b>A</b> You would have to because there's different</p> <p>13 factors that could change the outcome of it. Because if</p> <p>14 you're going to take a piece of elastic and say, well,</p> <p>15 gee, this feels kind of soft on the outside, but then</p> <p>16 you're weaving in different fibers and threads, it's</p> <p>17 going to change the feel of that particular piece of</p> <p>18 elastic.</p> <p>19 Q Once again, I didn't get my question all out.</p> <p>20 <b>A</b> Okay.</p> <p>21 Q So let me try again, and then we'll have a more</p> <p>22 coherent record.</p> <p>23 <b>A</b> Okay.</p> <p>24 Q Is it the case that you would need to feel a</p>	<p style="text-align: right;">69</p> <p>1 not soft in your view. Can you recall feeling any other</p> <p>2 material in a disposable diaper that you would say was</p> <p>3 not soft?</p> <p>4 <b>A</b> Other than the ones that I wanted to have</p> <p>5 changed back in '86, is that what you're referring to?</p> <p>6 Q Well, what are those? I'm not sure I know what</p> <p>7 you're talking about.</p> <p>8 <b>A</b> Well, I had a specific reason back then, as I</p> <p>9 explained earlier, because of the elastic in the diaper</p> <p>10 at the waistband.</p> <p>11 Q And which diaper was this?</p> <p>12 <b>A</b> As I said earlier, I believe it was Pampers at</p> <p>13 that time.</p> <p>14 Q And the elastic at the waistband made the liner</p> <p>15 material not soft?</p> <p>16 <b>A</b> Correct.</p> <p>17 Q And you wanted to fix that?</p> <p>18 <b>A</b> I did.</p> <p>19 Q Now, can you recall ever feeling any other</p> <p>20 material in a disposable diaper, other than the body</p> <p>21 side liner in the waist region in that Pampers diaper,</p> <p>22 which you felt was not soft?</p> <p>23 <b>A</b> I felt that in the leg hole areas it wasn't as</p> <p>24 soft as it should be for a baby. I felt it could use an</p>

**H I G H L Y C O N F I D E N T I A L**

<p style="text-align: right;">70</p> <p>1   <b>extra feature.</b></p> <p>2   Q   And this was the Pampers diaper again or some 3   other diaper?</p> <p>4   A   <b>I believe it was Pampers.</b></p> <p>5   Q   And again --</p> <p>6   A   <b>To the best of my recollection. I'm sorry.</b></p> <p>7   Q   This is back in 1986?</p> <p>8   A   Yes.</p> <p>9   Q   All right. Now, the leg hole area you said was 10   not as soft as it could be. Would you have described 11   that leg hole area as soft or not soft, or could you not 12   say whether it was one or the other?</p> <p>13   A   <b>It was not soft.</b></p> <p>14   Q   And you could tell that just by feeling it?</p> <p>15   A   <b>You felt mainly elastic when you felt it, yes.</b></p> <p>16   So it was not soft.</p> <p>17   Q   How does one tell whether a particular part of a 18   diaper provides padding or not?</p> <p>19   A   <b>How can you tell if it provides padding?</b></p> <p>20   Q   Yes.</p> <p>21   A   <b>Because it has extra material, and, as I said 22   earlier, the dictionary claims it could be -- it has to 23   be comfortable. It's something that you add in order to 24   pad something.</b></p>	<p style="text-align: right;">72</p> <p>1       (Whereupon, this concludes the confidential 2       portion of the deposition.)</p> <p>3   MR. BAUMGARTNER: In my view, Mrs. Tracy's duty of 4   disclosure to the Patent Office requires the prompt 5   disclosure of this testimony to the Patent Office. And 6   in fairness to you, Mrs. Tracy, I wanted to specifically 7   mention this point so you could make a note of the need 8   to send the examiner the material portions of this 9   transcript after you receive a copy from the court 10   reporter.</p> <p>11      And with that, I will pass the witness.</p> <p>12   MR. MANZO: To whom?</p> <p>13   MR. BAUMGARTNER: The next questioner.</p> <p>14   MS. ADDISON: I think I'm the next questioner, and I 15   think we previously agreed, at our last break this might 16   be a convenient time for our noon recess.</p> <p>17   MR. MANZO: That's fine.</p> <p>18   THE VIDEOGRAPHER: Off the record 11:52. End of 19   tape 1.</p> <p>20      (Lunch recess was taken.)</p> <p>21   THE VIDEOGRAPHER: This is tape 2, continuing 22   deposition of Rhonda Tracy. Time is 1:05 on May 25.</p> <p>23   On the record.</p> <p>24      EXAMINATION</p>
<p style="text-align: right;">71</p> <p>1   Q   So if you have extra material and it's 2   comfortable --</p> <p>3   A   Yes.</p> <p>4   Q   -- that's padding?</p> <p>5   A   <b>It could be, yes.</b></p> <p>6   Q   Can you think of a case where you would have 7   extra material, it would be comfortable, and it's not 8   padding?</p> <p>9   A   <b>You would have extra material and it's 10   comfortable? No, because in padding I believe you have 11   to add something.</b></p> <p>12   Q   So if you have extra material and if it's 13   comfortable, then you have padding?</p> <p>14   A   <b>As the dictionary describes it, I believe that's 15   the way it is.</b></p> <p>16   MR. BAUMGARTNER: Have you ever felt a soft 17   material -- Strike that. I believe my time is just 18   about up, so I'm going to pass the witness.</p> <p>19      (Whereupon, the following portion of the 20   deposition has been designated confidential.)</p> <p>21   MR. BAUMGARTNER: Let me just observe, though, that 22   some of the testimony given today is highly material to 23   the pending patent application that's now before the 24   U.S. Patent Office as serial No. 107643.</p>	<p style="text-align: right;">73</p> <p>1       by Ms. Addison:</p> <p>2   MS. ADDISON: Q   Good afternoon, Miss Tracy. We 3   were introduced this morning before the deposition 4   began. You know I'm Linda Addison, and I'm representing 5   Drypers in this case that has been brought by you 6   against Drypers.</p> <p>7   A   Yes.</p> <p>8   Q   Miss Tracy, you understand that you are still 9   under oath?</p> <p>10   A   Yes.</p> <p>11   Q   Okay. Have you ever given a deposition before?</p> <p>12   A   Yes, I have.</p> <p>13   Q   Even though we are sitting here informally in 14   the offices of counsel for Kimberly-Clark, you 15   understand that what you say today would have the same 16   force and effect if you were saying it in the 17   courthouse?</p> <p>18   A   Yes, I do.</p> <p>19   Q   Miss Tracy, as you know, I believe the Court has 20   given the defendants time constraints for your 21   deposition, and, therefore, we've agreed to share the 22   time. And I think it's understood among all parties 23   that we will not be taking a full and comprehensive 24   deposition of you today.</p>

**H I G H L Y C O N F I D E N T I A L**

<p style="text-align: right;">74</p> <p>1   <b>A Okay.</b>      2   Q Because of that, I'm going to try -- partly      3 because of that and partly because I don't ever like to      4 cover -- replow old ground, I'm going to try very hard      5 not to repeat or ask you questions that were covered by      6 Mr. Baumgartner this morning.</p> <p>7   <b>A Okay.</b>      8   Q Nevertheless, there are a few questions that he      9 asked you that I would like to begin by following up on.      10 and then I'll move into some other areas. All right?</p> <p>11   <b>A Okay.</b>      12   Q Have you ever invented anything other than the      13 patents that are the subject -- or the patent that is      14 the subject of this lawsuit and the related patents?</p> <p>15   <b>A No, I have not.</b>      16   Q Have you ever applied for any U.S. patents,      17 other than the diaper patents, that are related to the      18 patents in this suit?</p> <p>19   <b>A No, I have not.</b>      20   Q You mentioned before lunch upon questioning by      21 counsel for Kimberly-Clark that you and Mr. Van Epps,      22 your first counsel, had a disagreement in that you      23 wanted a utility patent -- I'm sorry, you wanted the      24 utility patent and he wanted the design patent and that</p>	<p style="text-align: right;">76</p> <p>1   MR. MANZO: So if you could answer without invading      2 the attorney-client privilege, or if you choose to waive      3 the attorney-client privilege, go ahead.</p> <p>4   THE WITNESS: I first found out about the disclosure      5 program -- you know, as my memory best serves me, I      6 believe it was even on television at one point about a      7 disclosure program. I'm not totally accurate about      8 that.</p> <p>9   I do remember calling the Patent Office and      10 making inquiries about the disclosure program. That was      11 through no advice of any attorney.</p> <p>12   In conversations with the Patent Office I was      13 then told, I believe, the differences in different      14 patent applications, and I had conversations. But the      15 disclosure program was something that I did completely      16 on my own without the advice of any attorney.</p> <p>17   MS. ADDISON: Q Okay. When you are referring or      18 when you use the phrase disclosure program, would you      19 please tell us what you mean by that?</p> <p>20   <b>A Well, on September 2, 1986, when I first came up      21 with the patent idea, and I have affidavits that are      22 signed and sworn to that, they're notarized, I had sent      23 that into the Patent Office.</b></p> <p>24   And what they did with this disclosure program</p>
<p style="text-align: right;">75</p> <p>1   that was a subject of disagreement between you.</p> <p>2   <b>A Yes, that's correct.</b></p> <p>3   Q How was it that you, a first-time inventor, knew      4 the difference between a utility and design patent?</p> <p>5   <b>A It was explained to me that there was a      6 difference, in that utility means functional, which is      7 what my diaper is. It's a functional design. And      8 ornamental is completely different in appearance, and I      9 knew that.</b></p> <p>10   <b>And I have a particular interest -- I guess you      11 could say that I've always been intrigued with patents,      12 so to speak, because my mother had a friend who invented      13 a different type of an eyeglass. And this is when I was      14 a teenager. And I was always intrigued with her      15 particular invention that she came up with.</b></p> <p>16   Q You said that it was explained to you there was      17 a difference between utility and design patent.</p> <p>18   <b>A Yes.</b></p> <p>19   Q Who was it that explained that to you?</p> <p>20   <b>A I believe it was --</b></p> <p>21   MR. MANZO: I would caution the witness not to      22 reveal the sum and substance of attorneys'      23 conversations.</p> <p>24   THE WITNESS: Okay.</p>	<p style="text-align: right;">77</p> <p>1   is give it a date and, you know, a serial number, if you      2 want to call it that, or some type of a number, that      3 they have seen it, that it has passed through their      4 office, and the date that they stamp it with I believe      5 was the date that it left the mail room.</p> <p>6   But I had called the Patent Office myself to      7 inquire about that disclosure program to begin with.</p> <p>8   Q And all that was before you first approached      9 Mr. Van Epps?</p> <p>10   <b>A Yes, correct.</b></p> <p>11   Q Before our noon recess, when you were talking      12 about your disagreement with Mr. Van Epps, you indicated      13 that you wanted a filing date as soon as possible.</p> <p>14   <b>A Yes.</b></p> <p>15   Q Why was that?</p> <p>16   <b>A Well, because the disclosure program, I know it      17 gives you a date, but it doesn't give you a patent per      18 se. So I knew that I had to have a patent application      19 with some sort of a date on it in order to pursue      20 getting a patent on what it was that I had invented.</b></p> <p>21   <b>And without an application, I can't really rely      22 completely on disclosure, you know, to give me a patent.</b></p> <p>23   Q But what was it that gave you a sense of urgency      24 about getting a date as soon as possible?</p>

**H I G H L Y   C O N F I D E N T I A L**

<p style="text-align: right;">78</p> <p>1    A Just the knowledge that other inventions, if 2 they supersede that date, you know, then you're really 3 lost. So --</p> <p>4    Q You were concerned that someone else would 5 either patent or begin practicing your invention?</p> <p>6    A Correct, that someone eventually would think of 7 it before, you know, my date of filing.</p> <p>8    Q Can you find, Miss Tracy, Exhibit 3, which is 9 your design application.</p> <p>10   A Uh-huh.</p> <p>11   Q Does Exhibit 3, which is the design application 12 that you've discussed this morning with counsel for 13 Kimberly-Clark, accurately represent what you invented?</p> <p>14   A It represents what I had written on my 15 disclosure document back in 1986 that has since been 16 changed, as you know.</p> <p>17   Q You're talking about the differences between the 18 '824 patent that's in suit here and the disclosure 19 document?</p> <p>20   A The '824 patent has this feature, I believe. It 21 is included -- I don't have the exact number in front of 22 me, but I know it's included in that one as well. But 23 it's not a particular feature that we are suing on. The 24 claims, I mean, because we are suing under 1, 2, 9, 10,</p>	<p style="text-align: right;">80</p> <p>1    Q And you're referring to claim 3 of the '824 2 patent?</p> <p>3    A Yes, I am.</p> <p>4    Q Okay. Leaving aside the '824 patent, and I'd 5 like to go back now to the filing date of your design 6 application, February 2, 1987. Does this design 7 application accurately represent the subject of your 8 invention?</p> <p>9    MR. MANZO: Objection, asked and answered. The 10 objection is to vagueness.</p> <p>11   I mean, if you're asking whether this shows the 12 ornamental features of her invention, that's one 13 question. If you're asking her whether this shows the 14 utility features of her invention, that's another 15 question.</p> <p>16   You could ask it any way you want, but as 17 stated, I object to the vagueness of the question.</p> <p>18   MS. ADDISON: Q Leaving aside for a moment the 19 '824, were the designs reflected in Exhibit 3 that is 20 before us today accurate depictions of your invention as 21 of February 2, 1987?</p> <p>22   A Yes.</p> <p>23   Q This morning Mr. Baumgartner -- Baumgartner or 24 Baumgartner?</p>
<p style="text-align: right;">79</p> <p>1    14 and 15.</p> <p>2    Q I'm just trying to understand your position. 3 Does -- and I didn't understand your answer. Does 4 Exhibit 3 accurately represent the subject of your 5 invention?</p> <p>6    MR. MANZO: Objection, the question is vague as 7 to --</p> <p>8    THE WITNESS: It represents one of the features of 9 my invention. I was told I had to answer even though 10 there's an objection.</p> <p>11   MR. MANZO: You should probably wait until I finish 12 the objection.</p> <p>13   THE WITNESS: I'm sorry. I'm sorry.</p> <p>14   MS. ADDISON: Q Okay. And that feature that is -- 15 and the feature that it represents is accurately 16 represented in Exhibit 3?</p> <p>17   A Yes.</p> <p>18   Q And what feature is that?</p> <p>19   A Let me refresh my memory on the patent and the 20 claim.</p> <p>21   Claim No. 3, the diaper of claim 2 wherein said 22 first strip wraps around from inside to the outside of 23 the waistband, which is what it does here. And also in 24 figure 1.</p>	<p style="text-align: right;">81</p> <p>1    MR. BAUMGARTNER: Baumgartner.</p> <p>2    MS. ADDISON: Q I apologize if I have misstated 3 your name.</p> <p>4    In a couple of places I'm going to repeat what 5 I believe is testimony you gave this morning. If I 6 mistake that, it is not my intention to, and I believe I 7 have taken it down accurately, but you feel free to 8 correct me if I'm mistaken. All right?</p> <p>9    A Okay.</p> <p>10   Q This morning in response to a question by 11 Mr. Baumgartner, he asked you with regard to Exhibit 3 12 whether anything in that design application indicated 13 that the padded member at the waistband was soft.</p> <p>14   A Right.</p> <p>15   Q And I wrote down that you answered nothing in 16 the text indicates that it is soft.</p> <p>17   A In the design text, correct.</p> <p>18   Q In the design text. Is there anything anywhere 19 in the design application that indicates that it is 20 soft?</p> <p>21   A Not in written form. But as I said, it can be 22 implied because what you would want to design for a baby 23 would have to be soft and not hard.</p> <p>24   Q All right. Nothing in the text -- you've</p>

**H I G H L Y C O N F I D E N T I A L**

<p style="text-align: right;">82</p> <p>1 already told us nothing in the text indicates that it 2 was soft, correct? 3     <b>A That's right.</b> 4     Q Okay. And nothing in the pictures indicates 5 that it's soft either, does it? 6     A I can't really say that because my intention 7 always was to imply that this is something soft, you 8 know, for the baby. 9         That was my intention. And it is added in a 10 disposable diaper, therefore, I think you would conclude 11 you wouldn't add anything hard to a disposable diaper. 12     Q This morning with Mr. Baumgartner you gave an 13 answer that said, I believe, that any padding added to a 14 baby diaper can only be soft. Do you remember the 15 answer that I'm referring to? 16     A Did I state it in those exact words? 17     Q Well, I don't want to swear to you that I did, 18 and that's why we have our capable court reporter here. 19         But in regard to an earlier discussion of 20 Exhibit 3 and your discussion with padding -- your 21 earlier discussion with Mr. Baumgartner with padding, 22 you used something similar to that. Do you remember the 23 series of questions and answer I'm talking about? 24     A There were so many questions, but, yes,</p>	<p style="text-align: right;">84</p> <p>1     <b>A There's padding within the embodiment. In mine</b> 2 <b>there's padding also in the waistband and in the leg</b> 3 <b>areas.</b> 4     Q Anything else? 5     A That pretty much covers the diaper I think; the 6 embodiment, the legs, and the waist. 7     Q Miss Tracy, when you use the word soft as you've 8 used it throughout the day and in your patent, what do 9 you mean by soft? 10     A Soft, it's comfortable. 11     Q Are there any words used in the '824 patent 12 claims that have anything other than their ordinary 13 dictionary definitions? 14     A Anything other than the ordinary dictionary 15 definitions? I can't be sure of that. 16     MR. MANZO: You're asking about all the claims as a 17 group? 18     MS. ADDISON: I'm talking about the claims at issue 19 in this suit. 20     MR. MANZO: Claims 1, 2, 9, 10, 14 and 15? 21     MS. ADDISON: Yes. 22     MR. MANZO: That's what she means. Go ahead. 23     THE WITNESS: I'm just waiting for you to finish. 24     MS. ADDISON: Q And let me tell you, I am really</p>
<p style="text-align: right;">83</p> <p>1     <b>something in that nature.</b> 2     Q Okay. Something in the nature of any padding 3 added to a baby diaper can only be soft? 4     A Should only be soft. 5     Q Should only be soft. What padding -- oh, I'm 6 sorry. I think the words you used were any padding added 7 to a baby diaper is commonly only soft. 8     A Commonly. 9     Q Commonly only soft. Does that sound familiar? 10    Does that sound like something you said? 11    A Perhaps. 12    Q Do you agree with that? 13    A More than likely it would be soft, yes, I would 14 say that. 15    Q Okay. What padding added to what diapers 16 commonly are you talking about? 17    A Padding to what diapers? 18    Q When you stated as a general proposition -- all 19 I'm trying to do now is understand an answer you gave 20 Mr. Baumgartner. 21    When you stated as a general proposition that 22 any padding added to baby diapers is commonly only soft, 23 to what padding added to what diapers are you referring 24 to?</p>	<p style="text-align: right;">85</p> <p>1     not trying to trick you or be tricky. 2         This morning in response to questions by 3 Mr. Baumgartner you referred to dictionaries on a number 4 of occasions. 5     A Yes. 6     Q And all I'm trying to find out is, are there any 7 words that you used in the '824 patent that have some 8 unusual meaning other than one would find in a 9 dictionary? 10     A Well, I think then it would be subject to 11 paraphrasing if you don't really refer to the dictionary 12 meaning of it. And we're not allowed to paraphrase or 13 interpret any other prior arts or my artwork other than 14 what it says. 15     So I don't know if it's fair to say that -- you 16 know, it could mean something different to you, but I 17 refer to different words being literate through the 18 dictionary expression because I think that's what we 19 should when we're dealing with patents. 20     Q Okay. I'll object as being nonresponsive. 21     A Okay. 22     Q My question, Miss Tracy, is, as you sit here 23 today, when was the last time you read the '824 patent 24 claims 1, 2, 9, 10, 14, 15?</p>

**H I G H L Y   C O N F I D E N T I A L**

<p>86</p> <p>1    A <b>Yesterday.</b></p> <p>2    Q Do any of the terms contained in those claims 3 have some unusual or uncommon meaning?</p> <p>4    A <b>I don't believe that they do.</b></p> <p>5    Q Do they have the meaning that one would find in 6 a dictionary?</p> <p>7    A <b>I would think so.</b></p> <p>8    Q Okay. And throughout the day when you have 9 referenced dictionary definitions that you've looked up, 10 what dictionary or dictionaries were you using?</p> <p>11   A <b>The college version, Random House publisher, the</b> 12 <b>Webster's dictionary.</b></p> <p>13   Q Miss Tracy. I'd like to call your attention, 14 please, to Exhibit 6 that you discussed this morning --</p> <p>15   A <b>Okay.</b></p> <p>16   Q -- with counsel for Kimberly-Clark. That is the 17 letter, the February 10, 1989 letter from you to Stella 18 Reed.</p> <p>19   A <b>Yes.</b></p> <p>20   Q This morning you indicated that you had a 21 telephone conversation with Miss Reed in which she said 22 your application should have been for a utility patent 23 instead of a design patent.</p> <p>24   A <b>That's correct.</b></p>	<p>88</p> <p>1    Q And when she told you that your application 2 should have been filed for a utility patent --</p> <p>3    A <b>Correct.</b></p> <p>4    Q -- instead of a design patent, for what reason 5 was that?</p> <p>6    A <b>For what reason?</b></p> <p>7    Q Yes. In other words -- I'm sorry, go on.</p> <p>8    A <b>Well, based on what I was telling her about my</b> 9 <b>patent, she says it should have been filed as a utility</b> 10 <b>patent.</b></p> <p>11   Q In order for what?</p> <p>12   A <b>Well, that was her reasons. I really can't</b> 13 <b>interpret as to what she meant. I just took her</b> 14 <b>literally as to what she said.</b></p> <p>15   A <b>And the conversation wasn't very long. It was</b> 16 <b>rather brief. And those are the words that just stand</b> 17 <b>out in my mind, that it should have been filed as a</b> 18 <b>utility patent.</b></p> <p>19   Q But for what reason for it to have been -- she 20 didn't tell you why she is saying a different type of 21 patent application would have been better for you?</p> <p>22   A <b>She didn't say it was going to guarantee me a</b> 23 <b>patent, but just that it should have been filed as a</b> 24 <b>utility patent.</b></p>
<p>87</p> <p>1    Q Was that conversation before or after you wrote 2 your February 10, 1989 letter that is before us as 3 Exhibit 6?</p> <p>4    A <b>The conversation, I believe, to the best of my</b> 5 <b>knowledge, took place prior to this letter. I was upset</b> 6 <b>that the design application was rejected. I was upset</b> 7 <b>with Mr. Van Epps, because I thought design application,</b> 8 <b>you know, it just turned out the way I thought.</b></p> <p>9    So I called the Patent Office myself, talked to 10 the examiner. She told me I would have to fire my 11 attorney, release him as power of attorney, and I told 12 her that I was indeed going to do that.</p> <p>13   A <b>And I had another conversation with her as</b> 14 <b>well. I didn't have just one conversation. I believe</b> 15 <b>we had two conversations.</b></p> <p>16   A <b>And then when I talked to her -- I'm sorry, I</b> 17 <b>will further add that when I did release Mr. Van Epps as</b> 18 <b>power of attorney, I had a conversation with her and</b> 19 <b>asked her to please tell me, as the inventor, what was</b> 20 <b>wrong with this design application.</b></p> <p>21   Q Okay. When she told -- when you say she told 22 you you'd have to fire Mr. Van Epps, was that in order 23 for her to be communicating with you directly?</p> <p>24   A <b>Yes, correct.</b></p>	<p>89</p> <p>1    Q And she didn't tell you why?</p> <p>2    A <b>I can't recall.</b></p> <p>3    Q And she didn't tell you what would have been 4 accomplished had it been filed as a utility patent 5 instead?</p> <p>6    A <b>I can't recall any -- exact conversation in that</b> 7 <b>way. The words just stood out, utility patent, pretty</b> 8 <b>much.</b></p> <p>9    Q Did you ever seek trademark protection for 10 something called a Comfies diaper?</p> <p>11   A <b>No, I did not.</b></p> <p>12   Q What is the Comfies diaper that is the reference 13 on Exhibit 6?</p> <p>14   A <b>I guess it was just a thought, that if I ever</b> 15 <b>were to have this manufactured maybe by private label,</b> 16 <b>or whatever, that I would want to use that particular</b> 17 <b>label for my diaper.</b></p> <p>18   Q Why did you put the TM after the word Comfies in 19 the reference line?</p> <p>20   A <b>I believe -- Now I'm not totally sure on this,</b> 21 <b>but I believe Mr. Van Epps might have shared with me</b> 22 <b>that, you know, if it's a registered trademark -- you</b> 23 <b>have to make a distinction between whether it's</b> 24 <b>registered, but to protect like a title or a name you</b></p>

**H I G H L Y   C O N F I D E N T I A L**

<p style="text-align: center;">90</p> <p>1 can put the TM after it.</p> <p>2 Q In the third paragraph down -- I'm going to try 3 not to be repetitious from this morning. In the third 4 paragraph down, the paragraph that begins "I realize," 5 you state in there that Mr. Van Epps oversimplified your 6 design and didn't give any notation to the contents of 7 the model, i.e. diaper.</p> <p>8 A Right.</p> <p>9 Q In what way did he oversimplify?</p> <p>10 A By making it a design application. I guess I 11 should have been more specific in my letter, but that's 12 what I meant.</p> <p>13 Q When you say he didn't give any notation to the 14 contents of the model, what do you mean by that?</p> <p>15 A Well, in other words, he didn't describe the 16 model at all, or the features. Didn't write any claims.</p> <p>17 Q In the next sentence, which appears to be a 18 separate paragraph, you say that Mr. Van Epps should 19 have indicated where the extra padding is located.</p> <p>20 A Correct.</p> <p>21 Q To what does the word extra refer?</p> <p>22 A Additional.</p> <p>23 Q Additional beyond what?</p> <p>24 A Well, what I intended at the time was my model</p>	<p style="text-align: center;">92</p> <p>1 I didn't realize we were going to have this 2 many people here. Can you share? Okay. Thank you. 3 Is it 14?</p> <p>4 (Document marked as requested.)</p> <p>5 MS. ADDISON: Actually, let's go on and mark 15 at 6 the same time. 15.</p> <p>7 (Document marked as requested.)</p> <p>8 MR. MANZO: Just so you know, it appears that the 9 second page of 15 is included as one of the pages of 10 Exhibit 6, page No. 32, except they're different at the 11 marginal notation.</p> <p>12 MS. ADDISON: Q Miss Tracy, when you were referring 13 to your affidavit in your disclosure document a little 14 while ago, are Exhibits 14 and 15 the documents to which 15 you were referring?</p> <p>16 A Yes.</p> <p>17 Q Is Exhibit 14 in your handwriting?</p> <p>18 A Yes, it is.</p> <p>19 Q Up in the upper right-hand corner of Exhibit 14 20 you indicate that this is invention No. 2.</p> <p>21 A Yes.</p> <p>22 Q And this invention No. 2, to what does it refer?</p> <p>23 A Well, let me read these.</p> <p>24 This refers to my design application that</p>
<p style="text-align: center;">91</p> <p>1 contained extra padding at the waistband. So that's 2 what I mean by extra.</p> <p>3 Q Extra implies that there is some padding present 4 at the waistband?</p> <p>5 A Well, not being an attorney, or a patent 6 attorney, I believe at the time I was just trying to 7 imply that there was something additional added to the 8 common disposable diaper.</p> <p>9 Q Does extra padding -- by extra padding did you 10 mean that there was some padding already present?</p> <p>11 A I don't believe I meant that.</p> <p>12 Q Going down three paragraphs, the one that begins 13 with the word "on," there you say that you have marked 14 areas where additional padding should be noted.</p> <p>15 A Let me see if I can read the last page. Yes, 16 let me see if I can read the last page.</p> <p>17 Q My question for you, Miss Tracy, is, doesn't the 18 use of the phrase additional padding imply there's 19 already some padding there?</p> <p>20 A I imagine it could imply that. But it also 21 could mean that you're adding something that wasn't 22 present previously.</p> <p>23 MS. ADDISON: What's our next number, exhibit 24 number? 14.</p>	<p style="text-align: center;">93</p> <p>1 Mr. Van Epps had filed.</p> <p>2 Q What was invention No. 1?</p> <p>3 A Well, what I did was I sent these all in at the 4 same time. As you can see, they all have the same 5 number and the same date. I believe I just wanted to 6 cover my basis with my handwriting. And when I typed it 7 out, I wanted it to be more legible, and I believe 8 they're the same.</p> <p>9 Invention No. 1, I'm not sure. It could be. 10 Invention No. 2, that maybe I marked this as just a 11 second document and said invention No. 2. I can't 12 really recall those fine details of that.</p> <p>13 Q Was it your intention -- is Exhibit 15 merely a 14 typewritten version of Exhibit 14?</p> <p>15 A I believe it is.</p> <p>16 Q Okay. Did you type Exhibit 15 yourself?</p> <p>17 A Yes, I did.</p> <p>18 Q And Karen Reynolds, the notary public, was she a 19 notary in Mr. Van Epps' office?</p> <p>20 A No, she was a notary at a bank called DuPage 21 Bank &amp; trust at that time. It has now been changed to 22 FirstStar Bank.</p> <p>23 Q Did she notarize this -- did you have both 24 documents notarized at the same time?</p>

**H I G H L Y   C O N F I D E N T I A L**

<p style="text-align: right;">94</p> <p>1   A Yes, I did.      2   Q The handwritten version and a typewritten      3 version notarized at the same time?      4   A Yes, I did.      5   Q You indicate in the second line that your      6 improvement that is the subject of this declaration      7 involves putting cotton around the waistline and leg of      8 the diaper.      9   A Yes.      10   Q And then in the sketch you have drawn some      11 arrows at the waist and the leg cuffs.      12   A Yes.      13   Q And then underneath, on Exhibit 14, on the      14 handwritten version, you say the lining is different by      15 the way it goes from inside to out around the legs and      16 waist.      17   A Yes, that's correct.      18   Q Different from what?      19   A Well, I meant to imply that it's different from      20 the disposable diapers that were out at that time.      21   Q The way it was different was the subject of your      22 invention, correct?      23   A Correct.      24   Q And it was different by going from the inside to</p>	<p style="text-align: right;">96</p> <p>1   Q Okay. And does that drawing reflect that the      2 lining that you have referred to in Exhibits 14 and 15.      3 and which is the subject of your design application.      4 actually covers that outside rim of the diaper?      5   A Yes. And it's also shown down here as well, in      6 figure 3.      7   Q I was going to get to that in a minute. What      8 does figure 3 show?      9   We're on Exhibit 6 now. What does figure 3      10 demonstrate?      11   A Figure 3 is supposed to demonstrate where I just      12 was pointing to earlier, the inside of the diaper in      13 this particular figure, and then how it comes around to      14 the outside as well, kind of like a 3-D look at it, so      15 to speak.      16   Q Okay. Figure 3 shows a diaper that is three      17 layers, does it not?      18   A Three layers? It shows an outer loop. I don't      19 know if you'd really call that three layers because      20 going from inside to outside, I think, could be one      21 layer as it is shown here, looping around. It's      22 covering -- if I can just display with the diaper.      23   It's going from inside to outside. And so      24 they're showing the version where it looks like that</p>
<p style="text-align: right;">95</p> <p>1 the outside as you've indicated here?      2   A Correct.      3   Q Is that, in fact, what is shown in your design      4 application, Exhibit 3, going from -- you've got a      5 cleaner copy of it than I do, I think.      6   A Let me see here. Yes, it seems as though      7 there's a band here going from the inside to the      8 outside. They show the inner-most part and then coming      9 around and going on the outside in figure 1.      10   Q Okay. Miss Tracy, I think you and I understand      11 each other, and maybe everybody in the room understands      12 what you're saying, but when this lady transcribes it,      13 this way and that way is not going to be all that clear.      14   A Okay.      15   Q Can you show on the camera what you mean from      16 inside to outside as you just demonstrated to me in your      17 testimony, please.      18   A Here is the waistband portion.      19   THE VIDEOGRAPHER: Turn it more this way.      20   THE WITNESS: Sorry.      21   MS. ADDISON: Q Okay.      22   A The waistband portion from the inside. And as      23 you see the outer scope of the diaper, it also comes to      24 the outside.</p>	<p style="text-align: right;">97</p> <p>1 from the side.      2   Q But as to the body portion of the diaper, it      3 shows a diaper that is three layers, does it not?      4   A The body portion, meaning through here?      5   Q Yes, figure 3. Is figure 3 not a      6 cross-section -- this portion of figure 3 is a      7 cross-section of what is being referred to in the '824      8 patent as a body portion?      9   A If you're looking at this part of figure 3, you      10 could see a layer I believe here, inside, and then on      11 top. But this loop is also connected to this particular      12 loop here. I'm talking about the loop that goes inside      13 of this outer loop.      14   Q All right. Let's talk about this portion -- Are      15 you with us, Mr. Videographer?      16   THE VIDEOGRAPHER: Raise it up. You've got glasses      17 in the way.      18   MS. ADDISON: Q Okay. And diapers, too.      19   Okay. And I don't want to put you at a      20 disadvantage because it's your testimony that I want.      21   A That's okay.      22   Q You know what?      23   A Excuse me, I just want to look at this a little      24 more closely, too.</p>

**H I G H L Y   C O N F I D E N T I A L**

<p style="text-align: right;">98</p> <p>1 MS. ADDISON: You're not going to believe it, but I 2 just happen to have this with me. 3 MR. MANZO: That's for walking around the dangerous 4 streets of Chicago. 5 THE WITNESS: May I correct myself? 6 MS. ADDISON: Q Yes. 7 A <b>It does appear that there are three layers in</b> 8 <b>this loop here on figure 3. It looks like there's one</b> 9 <b>layer on top, one on the bottom, and then the loop that</b> 10 <b>goes around.</b> 11 Q All right. And when you are referring to the 12 loop on figure 3, that portion there, when you say the 13 loop -- 14 A Yes, the one -- 15 Q That goes all the way around, goes round and 16 round? 17 A Yes. 18 Q Okay. Is this portion, what you're referring to 19 as the loop of figure 3, the same portion that you 20 outlined in pink this morning for Mr. Baumgartner? 21 A That's correct. 22 Q This portion of figure 3 is this body part of 23 the diaper, right, or -- 24 A Are you talking about inside of the loop?</p>	<p style="text-align: right;">100</p> <p>1 MR. MANZO: I don't. Where is it? 2 MS. ADDISON: Right there. It's in both -- 3 THE WITNESS: Second paragraph. 4 MS. ADDISON: Q It says the lining goes from 5 inside to outside and/or front to back. We have just 6 discussed what inside to outside means, I believe. 7 A Right. 8 Q Can you show me please on -- I'm going to hold 9 up figure 1 of Exhibit 3, the design application. What 10 does front to back mean? 11 A Well, as I reread this, I believe what I 12 intended to mean was that, you know, there's a backside 13 of the diaper and it goes -- you know, there's a back 14 portion of the diaper, and then there's the front 15 portion of the diaper. 16 And going from front to back, this is -- this 17 is the front of the diaper. This is the back of the 18 diaper. The back also has a front to it. So going from 19 this front side to the back outside. 20 Q Oh, okay. So front -- 21 A That's what I believe I mean it to be. 22 Q Okay. Front to back then does not mean then the 23 circumference of the waistband? 24 A Well, I said from inside to out, and then I</p>
<p style="text-align: right;">99</p> <p>1 Q I'm talking about this -- 2 A Yes, that should be the body part of the diaper. 3 Q Okay. And there are three layers right there. 4 correct? 5 A Yes, uh-huh. 6 Q And the three layers, just so we don't have any 7 dispute, today, this morning, we were talking about the 8 bottom sheet as being the one that touches the parent 9 when the diaper's applied and the parent holds the baby? 10 A Yes. 11 Q The middle layer is the absorbent layer? 12 A Yes. 13 Q And the top sheet, or top layer, is the one that 14 touches the baby when the diaper is applied? 15 A Yes, that's correct. 16 Q Okay. Miss Tracy, when you said in Exhibits 14 17 and 15 -- These are the two affidavits, and I think 18 you've said at both places. We've talked about the 19 padding going -- or the lining going from inside to 20 outside. You say the padding goes from inside to out 21 and/or front to back. Do you see the language I'm 22 talking about? 23 A Yes. 24 Q Okay. When you say --</p>	<p style="text-align: right;">101</p> <p>1 specifically said from front to back. So I believe I 2 was indicating that it was not only in the front of the 3 diaper, but in the back of the diaper as well. 4 Q And when you're saying front and back, do you 5 mean -- do you mean by that front and back as if a baby 6 were wearing it, the front and the back, or do you mean 7 front side, backside? 8 A Well, at the time -- you know, there's no way it 9 can loop completely around because you have two 10 openings. So you have the distinction between the front 11 portion of the diaper and the back portion of the 12 diaper. 13 And I believe here I covered it by saying it 14 goes from inside to out, but also goes from front to 15 back. And I probably should have been more specific and 16 said maybe from the front side to the backside, or the 17 back-most portion of the diaper, you know, simplifying 18 it. 19 Q So the way you've used front and back here, it's 20 referring from the top sheet to the back sheet? 21 A Correct. 22 Q From the baby side to the mommy side -- 23 A Right, exactly. 24 Q -- or daddy side?</p>

**H I G H L Y C O N F I D E N T I A L**

<p style="text-align: right;">102</p> <p>1    A   <b>Exactly.</b>      2    MS. ADDISON: All right. Are we at 16? Okay. This      3    will be 16.      4    (Document marked as requested.)      5    MS. ADDISON: Q Miss Tracy, let me represent to you      6    that the number down in the bottom right-hand corner, T      7    followed by the 2032, means it was produced by your      8    counsel to us in response to document production      9    requests.      10   A   <b>Okay.</b>      11   Q   What is this document? Or do you recognize this      12   document?      13   A   <b>I vaguely recognize the document, and I cannot</b>      14   <b>distinguish completely what Mr. Van Epps might have sent</b>      15   <b>in and what he left behind.</b>      16   <b>And I can understand why you're questioning it,</b>      17   <b>because it's different. But I don't know if he gave</b>      18   <b>this portion to me and sent this into the Patent Office.</b>      19   <b>But all I know is that both of these were drawn up, and</b>      20   <b>what he decided to actually file, I'm not completely</b>      21   <b>sure about that, because I never saw the contents of my</b>      22   <b>own file.</b>      23   Q   Okay. The drawing that is between figure 2 and      24   figure 3 on Exhibit 16, this drawing right there, what</p>	<p style="text-align: right;">104</p> <p>1    figure 1, is that handwriting yours --      2    A   <b>Yes, that's mine.</b>      3    Q   -- where it says extra layers of padding?      4    A   <b>Yes.</b>      5    Q   Is the -- the handwriting there says extra      6    layers of padding. Is the extra -- are the extra layers      7    of padding to which this refers these squiggly lines      8    right here?      9    A   <b>Yes.</b>      10   Q   Did you color that in?      11   A   <b>Yes.</b>      12   Q   What is that document?      13   A   <b>I am not really sure. It might have been the</b>      14   <b>document that Mr. Van Epps and I first talked about when</b>      15   <b>he was considering drawing the diaper from the model.</b>      16   MR. MANZO: For the record, that appears to be page      17   30 of Exhibit 6.      18   MS. ADDISON: Q Thank you.      19   Do you know -- but you're not certain what it      20   is?      21   A   <b>I'm not certain what it is? I know what it is.</b>      22   <b>I know it's a drawing, but Mr. Van Epps and I had</b>      23   <b>conversations throughout. And as I said, I'm not so</b>      24   <b>sure what he decided to finally send in, but this could</b></p>
<p style="text-align: right;">103</p> <p>1    does that represent?      2    A   <b>I believe he's referring to -- it's pointing</b>      3    <b>right to this outer loop as if you were to look --</b>      4    Q   Can you turn --      5    A   -- inside of it.      6    Q   -- it to the camera?      7    A   <b>Yes, sure.</b>      8    Q   Do you believe that's a cross-section of the      9    outer loop?      10   A   <b>I believe that's what it's intended to be.</b>      11   Q   When you're using the word outer loop, are you      12   again referring to the area that you highlighted in pink      13   this morning for Mr. Baumgartner --      14   A   <b>Yes.</b>      15   Q   -- on figure 2 of Exhibit 6, the design      16   application?      17   A   <b>Yes, and also in figure 3.</b>      18   MS. ADDISON: Okay. 17.      19   (Document marked as requested.)      20   MS. ADDISON: Q Miss Tracy, I'll represent to you.      21   ma'am, that Exhibit 17 also comes from your production      22   to us in this case.      23   A   <b>Okay.</b>      24   Q   Is the handwriting right below the printed</p>	<p style="text-align: right;">105</p> <p>1    be our discussion as to when he and I were first      2    discussing it as to how to represent this diaper.      3    Q   And, once again, the extra here refers to what?      4    A   <b>Additional padding.</b>      5    Q   Additional beyond the padding?      6    A   <b>I'm not saying beyond. It could be padding</b>      7    <b>that's added to an existing disposable diaper that did</b>      8    <b>not have padding previously in those particular areas.</b>      9    Q   And could it be padding that is added to a      10   disposable diaper that had padding there?      11   A   <b>I wouldn't have thought that it needed extra</b>      12   <b>padding if it already had padding.</b>      13   Q   Is there any reason to use the word extra if --      14   extra padding if there's no padding already there?      15   A   <b>I'm not particularly sure.</b>      16   Q   There wouldn't be any reason to use the word      17   padding if there was -- unless there was padding there?      18   A   <b>Well, you use padding, but you're saying the</b>      19   <b>word extra. Extra is something additional.</b>      20   Q   Additional to what's already there?      21   A   <b>What's already there could be just a layer of</b>      22   <b>material. So it needs something extra, and that being</b>      23   <b>padding.</b>      24   <b>It could be just -- if this were a diaper, I</b></p>

**H I G H L Y C O N F I D E N T I A L**

<p style="text-align: right;">106</p> <p>1 could say, you know, this needs something extra, let's 2 put a layer of padding right here. I'd be doing just 3 that.</p> <p>4 Q There's no reason to say additional layers of 5 padding unless there's some padding already there, is 6 there?</p> <p>7 A That's not my interpretation. I just showed you 8 what I meant.</p> <p>9 Q Can you find Exhibit 5 that you were discussing 10 this morning with Mr. Baumgartner?</p> <p>11 A I have it.</p> <p>12 Q Could you go to the first page of that exhibit, 13 please.</p> <p>14 A This is marked 5.</p> <p>15 Q Let me help you if you don't mind.</p> <p>16 Here we are. Okay. Paragraph 2 on the first 17 page of Exhibit 5, your Declaration in Support of a 18 Petition to Make Special, you said on or about October 19 11, 1988 it came to your attention that Proctor &amp; Gamble 20 Company of Cincinnati, Ohio was distributing disposable 21 diapers which you believed to be an infringement of the 22 claim and your pending application.</p> <p>23 A Correct.</p> <p>24 Q What are the circumstances under which that came</p>	<p style="text-align: right;">108</p> <p>1 MS. ADDISON: Are we on 19 now or 20? I mean the 2 next exhibit.</p> <p>3 The next one is 18, okay. This will be 18. (Document marked as requested.)</p> <p>5 MS. ADDISON: Q Did you buy those Proctor &amp; Gamble 6 diapers that you saw in the store or just look at them 7 in the store?</p> <p>8 A I believe I bought them.</p> <p>9 Q Exhibit 18 has some handwriting on it. I don't 10 think this was an attachment to anything this morning, 11 and if it was, I apologize. Or if it was, we can give 12 it a proper number.</p> <p>13 My concern about Exhibit 18 is simply 14 establishing is that handwriting at the top center of 15 the page yours?</p> <p>16 A Yes, it is.</p> <p>17 Q It says this area has extra padding/now lining.</p> <p>18 A Yes.</p> <p>19 Q What does that mean?</p> <p>20 A Well, the waistband did not come through very 21 clearly on the copy, but I was merely referring to the 22 waistband having extra padding.</p> <p>23 Q And when you say now lining, what do you mean by 24 that? Is it that the lining is now providing extra</p>
<p style="text-align: right;">107</p> <p>1 to your attention, Miss Tracy?</p> <p>2 A I was just going through the Jewel Food Stores, 3 and it was just right after I gave birth to my second 4 child, and I was picking up some diapers. And that's 5 when I came upon the Proctor &amp; Gamble diaper, and I 6 believe they advertised extra padding in the waistband, 7 which brought it to my attention.</p> <p>8 Q If you will flip, please, to the pages of 9 Exhibit 5 that Mr. Baumgartner has marked pages 18 and 10 19.</p> <p>11 A Okay.</p> <p>12 Q There's some handwriting on page 18, and it says 13 waist shield material going from inside to out and/or 14 back to front, and then there's some arrows there.</p> <p>15 A I was just trying to show as to how it looked on 16 the advertisement.</p> <p>17 Q Right. But the handwriting and the arrows were 18 written by you, correct?</p> <p>19 A Yes, they were.</p> <p>20 Q And, similarly, on page 19 there is printing 21 there, the waistline is designed like mine, inside to 22 out, with some arrows. Is that also your handwriting?</p> <p>23 A Yes. And, again, I was just referring to the 24 advertisement picture.</p>	<p style="text-align: right;">109</p> <p>1 padding?</p> <p>2 A Well, it was a very long time ago. I could have 3 meant now lining the inside of the waistband. I'm not 4 really sure, but I wanted to make note there was 5 definitely extra padding there.</p> <p>6 Q By inside of the waistband you mean the part 7 that's touching the baby, correct?</p> <p>8 A Yes, or it could have also been contained on the 9 inside of the part that touches the baby as well.</p> <p>10 Not having that particular diaper before me, 11 it's hard to say, and not having a clear picture, it's 12 very hard to say.</p> <p>13 Q Okay. Going back to figure 1 of Exhibit 3, the 14 design application, yes, we have this on videotape, but 15 I just want to make sure that there is no confusion or 16 misunderstanding about when you -- in your earlier 17 testimony when you were talking about inside to outside 18 and the arrows.</p> <p>19 When you were doing the demonstration for us 20 showing your padding going from inside to outside and 21 demonstrating on figure 1 of the design application, by 22 inside you were gesturing to and you meant, did you not, 23 the portion of the diaper that touches the infant when 24 the diaper is worn?</p>

**H I G H L Y C O N F I D E N T I A L**

<p style="text-align: right;">110</p> <p>1   <b>A</b> Yes.</p> <p>2   <b>Q</b> Okay. I'd like you, Miss Tracy, please, to find</p> <p>3   Exhibit 1, which is the '824 patent.</p> <p>4   Have I used about 50 minutes?</p> <p>5   <b>THE VIDEOGRAPHER:</b> 53.</p> <p>6   <b>MS. ADDISON:</b> 53?</p> <p>7   <b>THE WITNESS:</b> Okay.</p> <p>8   <b>MS. ADDISON:</b> Q Since September of 1986 when you</p> <p>9   filed your first declaration, have you met any other</p> <p>10   diaper designers or inventors?</p> <p>11   <b>A</b> I have not.</p> <p>12   <b>Q</b> Have you been to any diaper conventions or --</p> <p>13   <b>A</b> Zero.</p> <p>14   <b>Q</b> Do diaper designers congregate anywhere?</p> <p>15   <b>A</b> I've been invited to go to several types of</p> <p>16   different conventions or invention conventions. I've</p> <p>17   never gone.</p> <p>18   <b>Q</b> Do you have any impression or opinion or view</p> <p>19   what is the level of skill of one -- of ordinary skill</p> <p>20   in the art of diaper design?</p> <p>21   <b>A</b> Well, I don't think you need to have any</p> <p>22   engineering degree in order to design something like</p> <p>23   this. I don't think it takes a great deal of</p> <p>24   engineering.</p>	<p style="text-align: right;">112</p> <p>1 portion. What is a waistband portion?</p> <p>2   <b>A</b> Waistband -- Oh, no, I hope that's not -- Excuse</p> <p>3   me.</p> <p>4   <b>THE VIDEOGRAPHER:</b> Off the record 2:02.</p> <p>5   (Discussion had off the record.)</p> <p>6   <b>THE VIDEOGRAPHER:</b> On the record 2:02.</p> <p>7   <b>MS. ADDISON:</b> Q Do you need the question read back,</p> <p>8   Miss Tracy?</p> <p>9   <b>A</b> No. You wanted me to describe what is the</p> <p>10   waistband portion?</p> <p>11   <b>Q</b> Yes. What is the waistband portion?</p> <p>12   <b>A</b> The waistband portion, looking at the diaper, is</p> <p>13   the upper-most part, a part of the diaper right here.</p> <p>14   If you want to see, there's a distinct strip right here.</p> <p>15   I consider that a waistband portion.</p> <p>16   <b>Q</b> Okay. Now when you say upper-most, we can say</p> <p>17   up because of the angle at which you're holding the</p> <p>18   diaper, correct? It's upper-most in this position.</p> <p>19   <b>A</b> Yes, correct.</p> <p>20   <b>Q</b> Okay. And where does the waistband start and</p> <p>21   stop?</p> <p>22   <b>A</b> I would say it starts at the very top here, and</p> <p>23   I would say it ends right here. You could almost see a</p> <p>24   distinct waistband portion. And I'd say anything below</p>
<p style="text-align: right;">111</p> <p>1   <b>MS. ADDISON:</b> 19.</p> <p>2   (Document marked as requested.)</p> <p>3   <b>MS. ADDISON:</b> Q What I would like to do with you</p> <p>4   now, Miss Tracy, is ask you some questions about some of</p> <p>5   the terminology that is used in the '824 patent.</p> <p>6   <b>A</b> What page are you on?</p> <p>7   <b>Q</b> Right now I'm on the bottom of column 2 at claim</p> <p>8   1.</p> <p>9   <b>A</b> All right.</p> <p>10   <b>Q</b> And if you -- if it would help either one of us</p> <p>11   to use a specific diaper as an example, I'm going to ask</p> <p>12   you to use Exhibit 19, which is a Drypers diaper.</p> <p>13   <b>A</b> Okay. And I do not have --</p> <p>14   <b>Q</b> Do you need an extra copy of the '824? Exhibit</p> <p>15   1 -- I thought we would just use the one that was before</p> <p>16   us.</p> <p>17   <b>A</b> Wait a minute. I think there's another one</p> <p>18   underneath here that has the different claims.</p> <p>19   Here we go. It's not the same as that other</p> <p>20   copy. All right.</p> <p>21   <b>Q</b> All right. Column 2, line 62 --</p> <p>22   <b>A</b> Yes.</p> <p>23   <b>Q</b> -- says -- This is part of claim 1 of the '824.</p> <p>24   It says each end portion having a respective waistband</p>	<p style="text-align: right;">113</p> <p>1 that you're getting near the abdomen area. And because</p> <p>2 why would you distinguish waist from abdomen to begin</p> <p>3 with? So that's how I see it.</p> <p>4   <b>Q</b> Does where the waistband stops or starts have</p> <p>5   anything to do with the inner lining of the diaper?</p> <p>6   <b>A</b> Doesn't have anything to do with the inner</p> <p>7   lining.</p> <p>8   <b>Q</b> Okay. What is it that defines the waistband?</p> <p>9   Is it the waist of the infant?</p> <p>10   <b>A</b> What goes around the waist, what we know as our</p> <p>11   waist, what goes around the waist of the infant,</p> <p>12   correct.</p> <p>13   <b>Q</b> Okay. How many waistbands does Exhibit 19 have?</p> <p>14   <b>A</b> How many?</p> <p>15   <b>Q</b> Waistbands.</p> <p>16   <b>A</b> -- waistbands? Well, it goes around your entire</p> <p>17   waist from front to back. So I would say it has two;</p> <p>18   one here and one here.</p> <p>19   <b>Q</b> Okay. And when you say one here and one here,</p> <p>20   if we lay the diaper -- if we extend the diaper fully,</p> <p>21   you were referring to the outer-most portion on the left</p> <p>22   side and the most outer -- outer-most portion on the</p> <p>23   right side?</p> <p>24   <b>A</b> Yes. And I would have to say even further that</p>

**H I G H L Y C O N F I D E N T I A L**

<p style="text-align: right;">114</p> <p>1 once you affix the tab like right here, that is below 2 the waistband portion. 3 Q All right. 4 THE VIDEOGRAPHER: The camera did not see -- 5 THE WITNESS: Pardon? 6 THE VIDEOGRAPHER: The camera did not see the spot 7 you were pointing to. 8 THE WITNESS: I told her once you affix this tab 9 right here, I believe that that is just -- just below 10 the waistband portion of the diaper. 11 MS. ADDISON: Q So that when the -- however many 12 sheets this diaper has, when the sheets are all affixed 13 together, there would be one waistband portion on the 14 right-most side and one waistband portion on the 15 left-most side -- 16 A Uh-huh. 17 Q -- correct? 18 A Right and left, front and back, if you want to 19 put it that way. 20 Q Or as the baby is worn -- as the diaper is worn 21 by the infant, when the sheets are all affixed together, 22 there will be a waistband portion in the front and a 23 waistband portion in the back? 24 A Yes.</p>	<p style="text-align: right;">116</p> <p>1 I don't know if it's intentional or not. All I'm trying 2 to figure out is your interpretation of this word. 3 You're grasping more than just -- is the edge 4 more than just what you can run your finger along, what 5 I will now call the top because I'm holding it up? Does 6 the edge extend -- 7 A Is there more than one edge to this diaper? 8 Q No, it's a different question. Does the edge 9 extend down? If I hold this diaper up -- 10 A This is the edge, and I don't see where you can 11 classify this inner part here as an edge. 12 Q All right. The edge is -- as you would hold the 13 diaper in the configuration -- in the position I'm 14 holding it now, the edge is what one would touch if one 15 put one's finger on the top right here of this diaper, 16 correct? 17 A Correct. 18 Q All right. Going to column 3 on the next page 19 of the diaper -- of the diaper -- of the patent. I'm 20 sorry, line 2 of column 3 uses the word adjacent. 21 A Yes. 22 Q And I know that you and Mr. Baumgartner consumed 23 several minutes and probably several pages this morning 24 talking about adjacent, but I don't recall hearing from</p>
<p style="text-align: right;">115</p> <p>1 Q Okay. Is there a difference between waistband 2 and waistline? 3 A Waistband is a fold or a trim piece on a 4 garment. Waistline is your actual waistline on your 5 body. 6 Q Going back to -- I know I'm asking you to jump 7 around a lot. The very next line, after the one we were 8 looking at, we are now down to line 63 in column 2 of 9 the '824. 10 A Yes. 11 Q It uses the word edge. 12 A Uh-huh. 13 Q What is an edge? 14 A Well, this is the edge of the diaper right here. 15 Q Okay. 16 A This is a plastic layer edge on the back of the 17 diaper. 18 Q Is the edge -- as the diaper is worn by the 19 infant, and assuming that the infant does not have any 20 skin protruding over the diaper, is the edge the portion 21 of the diaper that would be sticking straight up? 22 A Yes, this is the edge portion right here. 23 Q Okay. And when you say this, and you're 24 gesturing with your fingers, you were grasping -- And I</p>	<p style="text-align: right;">117</p> <p>1 you your definition of adjacent. And if you gave it, I 2 apologize. I missed it. 3 A I believe I did give it. 4 Q All right. Could you tell me please how you -- 5 how you defined the term adjacent? 6 A I answered that previously this morning. Do 7 I -- I'm just asking my counsel, do I need to answer 8 that again? 9 Q You can reference -- I honestly don't know and 10 don't -- or don't remember if you gave that answer. I'd 11 be glad for you to reference that testimony, but would 12 you be so kind please to tell me your definition. 13 A Sure. I believe I was referring to spacial 14 concepts as you would describe them to a child; above, 15 below, next to, beside. So I believe I said next to. 16 Q Okay. Soft you've already told us you think 17 means comfortable; is that correct? 18 A Yes. 19 Q All right. Going down in column 3, line 6, you 20 use the word presenting. 21 A In column 3, line 6? Yes. 22 Q That the soft substance presenting a soft 23 surface. 24 A Yes.</p>

**H I G H L Y C O N F I D E N T I A L**

<p style="text-align: right;">118</p> <p>1 Q What does the word presenting mean?      2 A To bring forth.      3 Q When was the last time you looked up that      4 definition?      5 A I did not look it up recently.      6 Q It just popped into your head?      7 Is there a difference between presenting a soft      8 surface and in contact with a soft surface?      9 A Well, if you bring something -- if you bring it      10 forth, presenting can also mean, as I'm thinking,      11 representing a soft surface. So I think the way it's      12 meant here is you are representing a soft surface.      13 MS. ADDISON: How much time have I used?      14 THE VIDEOGRAPHER: An hour six minutes.      15 MS. ADDISON: Let's take five minutes. I need to      16 find some documents.      17 THE VIDEOGRAPHER: Off the record 2:12.      18 (Recess was taken.)      19 THE VIDEOGRAPHER: On the record 2:24.      20 MS. ADDISON: Q Miss Tracy, if you could have      21 before you, please, the '824 patent, which is Exhibit 1,      22 the design application, which is Exhibit 3, it's right      23 here, and also the Drypers diaper, I think maybe that      24 will expedite most of my remaining questions.</p>	<p style="text-align: right;">120</p> <p>1 waistband portion. And it presents a soft surface      2 because the padding is inside of the diaper waistband      3 portion. It's presenting a soft surface.      4 That is different than what reads at the bottom      5 saying in contact with the skin of the individual.      6 Q And how is it different? Would you please use      7 Exhibit 19 to demonstrate.      8 A Okay. Well, it says presenting a soft surface      9 along at least a portion of said --      10 MR. MANZO: I'm going to object to this line of      11 testimony. I mean, the claims say what they say, and      12 you're asking for a claim interpretation, which the      13 inventor's testimony is, in the absence of ambiguity.      14 not material.      15 So I object on the basis of relevance,      16 materiality, and calling for legal conclusions without      17 qualifying the witness as a legal expert.      18 You're entitled to ask over my objections, but      19 I need to register them for --      20 MS. ADDISON: You may answer.      21 MR. MANZO: -- this deposition.      22 MS. ADDISON: Q You may answer.      23 A Sure. Let's get to the front of the diaper.      24 Okay. This is the front of the diaper. This</p>
<p style="text-align: right;">119</p> <p>1 First of all, let me ask you, with regard to      2 the word presenting in claim 1 --      3 A Yes.      4 Q -- the language of claim 1 says a soft      5 substance presenting a soft surface --      6 A Correct.      7 Q -- along at least a portion of said inside of      8 the diaper waistband portion.      9 A Yes.      10 Q By using the word presenting, does that mean      11 something than a soft surface for contact with the skin      12 of the individual wearing the diaper?      13 A That is in claim 15 at the bottom. Let me read      14 claim 1 again, that part of it entirely, please.      15 This says inside of the diaper waistband      16 portion, claim 1.      17 Q Okay. My question is, when claim 1 uses the      18 word presenting a soft surface --      19 A Correct.      20 Q -- along at least a portion of said inside of      21 the diaper waistband portion, is that different from a      22 soft surface for contact with the skin?      23 A Well, how it is different is how I will explain.      24 This claim reads that it is inside of the diaper</p>	<p style="text-align: right;">121</p> <p>1 is the waistband portion. The soft surface, the soft      2 substance presenting a soft surface along at least a      3 portion of said inside of the diaper waistband, so this      4 soft padding that is inside of this diaper waistband      5 helps present a soft surface.      6 Q Is it your opinion, Miss Tracy, that by using      7 the word presenting here, the padding member does not      8 have to be in direct contact with the skin of the infant      9 wearing the diaper?      10 A No, the padding member does not have to be in      11 direct contact.      12 Q Under claim 1 of the '824?      13 A It says that it is distinct, which means it is      14 separate from all said body portion layer. The soft      15 padding member, including material formed from soft      16 substance, presenting a soft surface along at least a      17 portion of said inside of the diaper waistband portion.      18 So when it's inside, it's inside of the waistband      19 portion.      20 Q Would you please take a look at Exhibit 3, which      21 is the application, the design application, and show me      22 where in the original design application it is revealed      23 that the padding does not have to be in contact with the      24 infant wearing the diaper.</p>

**H I G H L Y   C O N F I D E N T I A L**

<p style="text-align: right;">122</p> <p>1   <b>A</b> May I ask a question? I'm not sure why we're 2 referring to design when we're talking first about this 3 particular patent that we're suing under, and we are not 4 suing under this patent. So I find it hard to relate to 5 the question.</p> <p>6   <b>Q</b> Okay. Well, with all due respect, I don't think 7 you need to concern yourself with the reason that I'm 8 asking questions.</p> <p>9   <b>A</b> Okay.</p> <p>10   <b>Q</b> Can you tell me whether Exhibit 3, the design 11 application, reveals that the soft padding member does 12 not need to be in direct contact with the skin of the 13 infant wearing the diaper?</p> <p>14   <b>A</b> Well, in this particular design application, it 15 shows that it is in contact with the skin of the diaper.</p> <p>16   <b>Q</b> Okay.</p> <p>17   <b>A</b> I mean, with the skin of the individual.</p> <p>18   <b>Q</b> Okay.</p> <p>19   <b>A</b> Excuse me.</p> <p>20   <b>Q</b> And my question, ma'am, is, is there anywhere in 21 Exhibit 3, the design application, that it shows that 22 the soft padding member does not need to be in contact 23 with the skin of the baby wearing the diaper?</p> <p>24   <b>A</b> Okay. There is a padding member as we said.</p>	<p style="text-align: right;">124</p> <p>1   please to column 3 of the '824, line 1.</p> <p>2   <b>A</b> Yes.</p> <p>3   <b>Q</b> It says the soft padding member located along at 4 least one of said waistband portions.</p> <p>5   <b>A</b> Yes.</p> <p>6   <b>Q</b> Is that reflected in Exhibit 3, the design 7 application?</p> <p>8   <b>A</b> The design application -- I would say yes, 9 because the design application does have extra padding.</p> <p>10   <b>In the '824 it says a soft padding member</b> <b>located along at least one of said waistband portions.</b> <b>So I would have to say, yes, it's present in '824 and</b> <b>also in the design application as well.</b></p> <p>14   <b>Q</b> There is nothing in the design application, is 15 there, that would tell one of ordinary skill in the art 16 reading the design application that the soft padding 17 member is located at least one of the waistband 18 portions?</p> <p>19   <b>A</b> It shows that it's located at least one, I 20 believe.</p> <p>21   <b>Q</b> The waistband portions of the diaper are in 22 figure 2 what you have highlighted in pink, correct?</p> <p>23   <b>A</b> Correct.</p> <p>24   <b>Q</b> Okay. And figure 2 shows -- and to the extent</p>
<p style="text-align: right;">123</p> <p>1   <b>There are three layers here. So in figure 3 there is</b> 2 something -- there are two layers inside of this outer 3 loop. So that is, I guess you could say, a layered or 4 padding member that is not in contact with the baby's 5 skin at the waistband.</p> <p>6   <b>Q</b> But when you were talking earlier about the 7 padding loop, the padding loop is the loop that loops 8 from the inside to the outside and is in contact with 9 the baby's skin, correct?</p> <p>10   <b>A</b> Yes.</p> <p>11   <b>Q</b> And that is what is looping around right here. 12 correct?</p> <p>13   <b>A</b> Yes.</p> <p>14   <b>Q</b> And nowhere in this diaper is there revealed a 15 soft padding member that is not in direct contact with 16 the inside of the diaper or the baby's skin when this 17 diaper is applied to the baby, correct?</p> <p>18   <b>MR. MANZO:</b> You mean apart from the outside?</p> <p>19   <b>MS. ADDISON:</b> Huh?</p> <p>20   <b>THE WITNESS:</b> You're talking about the contents of 21 the inside of the diaper?</p> <p>22   <b>MS. ADDISON:</b> Q Yes.</p> <p>23   <b>A</b> Yes, the contents of the inside of the diaper.</p> <p>24   <b>Q</b> Miss Tracy, if I could call your attention</p>	<p style="text-align: right;">125</p> <p>1   that Exhibit 3 reflects padding at the waist, it shows 2 it in both waistband portions, does it not?</p> <p>3   <b>A</b> Correct.</p> <p>4   <b>Q</b> It does not show it in at least one; it shows it 5 in both, correct?</p> <p>6   <b>A</b> It shows it in both.</p> <p>7   <b>Q</b> In the design application that is before us as 8 Exhibit 3, is there any way that the soft padding member 9 that is reflected in the design application would not be 10 in contact with the skin of the infant when this diaper 11 is worn by the infant?</p> <p>12   <b>A</b> Well, this particular design application shows 13 that it is in contact with the skin of the individual.</p> <p>14   <b>Q</b> And under that particular design application 15 there is no way that the soft padding member would not 16 be in direct contact with the skin of the individual 17 when worn, correct?</p> <p>18   <b>A</b> In this particular one, yes.</p> <p>19   <b>Q</b> Okay. On line 2 of column 3 of the '824 patent, 20 we talked a few minutes ago about your definition of the 21 word adjacent.</p> <p>22   <b>A</b> Yes.</p> <p>23   <b>Q</b> Can you please use Exhibit 19 and explain to me 24 what this claim means to you in that it recites a soft</p>

**H I G H L Y   C O N F I D E N T I A L**

<p style="text-align: right;">126</p> <p>1 padding member located along at least one side of said      2 waistband portions being adjacent to said plastic layer      3 edge.</p> <p>4 A Yes.</p> <p>5 Q What does that mean?</p> <p>6 A Well, this is next to the plastic layer edge.</p> <p>7 Q Okay. When you say this --</p> <p>8 A Do you want me to tear it apart? I'm referring      9 to the inner-most part of the waistband area being      10 adjacent to the plastic layer edge.</p> <p>11 So I'm talking about -- Let me get this torn      12 apart here. Well, I'm talking about the inner-most      13 portion being adjacent, and also this batting right      14 here, which is also on the inside of the diaper, that's      15 also adjacent to the plastic layer edge. They're both      16 next to the plastic layer edge.</p> <p>17 QOkay. So just to make sure I understand your      18 testimony, the soft padding -- in Exhibit 19 is the soft      19 padding member between the top sheet and the back sheet?</p> <p>20 A There is a soft padding member in between, and      21 then there is a top sheet, though, which also next to      22 the plastic layer edge.</p> <p>23 QOkay. And just so I'll have a clear record,      24 that is what is referred to -- you claim that is what is</p>	<p style="text-align: right;">128</p> <p>1 MS. ADDISON: Q I'm also not trying to get you to      2 be -- I tell you what, let me start over.</p> <p>3 A Okay.</p> <p>4 Q You have just told us as regards Exhibit 19, the      5 Drypers diaper, that the soft padding member is adjacent      6 to the plastic layer edge because it is -- the soft      7 padding member is right next to this outside plastic      8 layer edge, correct?</p> <p>9 A Correct.</p> <p>10 Q And is that sort of construction revealed in the      11 design application, which is before us as Exhibit 3?</p> <p>12 A I'll try explaining it another way.</p> <p>13 Q Thank you.</p> <p>14 A The extra padding in my design application, the      15 plastic layer edge is covered because it overlaps. Now      16 if you're talking about this part here being at the very      17 top, I guess you could say it's next to it, but it also      18 folds over, which means it covers that plastic layer      19 edge.</p> <p>20 So I'd have to say it's not just a one-pat      21 answer, because if it's next to it, well, yes, it is,      22 but the elastic is on the inside of -- the plastic layer      23 edge is on the inside of where it folds over. So not      24 only is it adjacent to it, but it continues and it folds</p>
<p style="text-align: right;">127</p> <p>1 referred to when it says a soft padding member located      2 along at least one of said waistband portions being      3 adjacent to said plastic layer edge?</p> <p>4 A Yes.</p> <p>5 Q Is that reflected in the design application that      6 is before us as Exhibit 3?</p> <p>7 A The design application has extra padding and it      8 folds over the plastic layer edge in the design patent.</p> <p>9 Q Does the design patent show a soft padding      10 member located along at least one of said waistband      11 portions being adjacent to said plastic layer?</p> <p>12 A As I said, it overlaps.</p> <p>13 Q And so in the design application it is adjacent      14 because it comes from the inside of the diaper, inside      15 being when worn, to the outside?</p> <p>16 A Well --</p> <p>17 MR. MANZO: Objection, mischaracterizes the      18 testimony.</p> <p>19 MS. ADDISON: Q I'm really not trying to      20 mischaracterize your testimony. I'm trying to      21 understand your understanding of these claims.</p> <p>22 A Can I just stick to my previous answer that I      23 already gave you?</p> <p>24 MR. MANZO: Objection, asked and answered.</p>	<p style="text-align: right;">129</p> <p>1 over.</p> <p>2 That's the best way I can explain it to you.</p> <p>3 So I believe I answered your question by saying yes.</p> <p>4 Q Okay. In Exhibit 3 it is adjacent --</p> <p>5 A It's adjacent and.</p> <p>6 Q -- by folding over -- I'm just trying to      7 understand your testimony.</p> <p>8 MR. MANZO: No, Counsel. What she said is that it's      9 adjacent because it's next to it and it additionally      10 folds over. That was her testimony. I'm sure that      11 that's what the reporter will reflect.</p> <p>12 MS. ADDISON: Q Okay. Where in Exhibit 3 -- do you      13 accept your counsel's restatement or characterization of      14 your testimony?</p> <p>15 A Absolutely.</p> <p>16 Q Okay. In addition to folding over --</p> <p>17 A Yes.</p> <p>18 Q -- where is the soft padded member next to the      19 plastic layer edge?</p> <p>20 A I already explained that, Counsel, but I'll      21 explain it once again.</p> <p>22 Q I'm not talking about the folding-over part.      23 I'm talking about the also-being-next-to part of your      24 answer.</p>

**H I G H L Y C O N F I D E N T I A L**

<p style="text-align: right;">130</p> <p>1   <b>A Okay.</b>      2   Q I'm really just trying to understand your      3 testimony.      4   <b>A Okay. It is next to, up here. As I said, the</b>      5 <b>plastic layer edge is inside of what is folded over.</b>      6 <b>So, yes, it is next to it, but it also folds over.</b>      7   <b>So I would have to say yes, it's next to it,</b>      8 <b>but it also folds over the top of that plastic layer</b>      9 <b>edge.</b>      10   Q At what point is it next to it? Is it next to      11 it on the inside?      12   <b>A Right here at the top. Whatever the waistband</b>      13 <b>portion is where it is next to it. I'm not talking</b>      14 <b>about the embodiment. I'm talking about the waistband</b>      15 <b>portion, which we can clearly see in the design</b>      16 <b>application.</b>      17   Q Okay. Where is the plastic layer edge in figure      18 1?      19   <b>A In figure 1? I believe it is right beneath the</b>      20 <b>loop.</b>      21   MS. ADDISON: All right. Let's hold this up.      22   THE VIDEOGRAPHER: Move the bottle, please.      23   THE WITNESS: Or inside of the loop.      24   MS. ADDISON: Q Okay. The plastic layer edge is</p>	<p style="text-align: right;">132</p> <p>1   me?      2   <b>A Yes, I sure will. Let me get my glasses on so I</b>      3 <b>can see these layers more distinctly. I'm going to use</b>      4 <b>this to point rather than my finger.</b>      5   Q Would you like to use this?      6   <b>A No, that's okay. That's kind of large for me to</b>      7 <b>hold that up and this at the same time.</b>      8   <b>Here is --</b>      9   MS. ADDISON: Are you getting this.      10 Mr. Videographer?      11 THE VIDEOGRAPHER: Yes.      12 THE WITNESS: It's very hard to pick up this loop,      13 but there is a portion here where it stops, of these      14 inner layers right here. And then the loop goes around      15 it.      16   So I would say that it is adjacent, you know,      17 up to this point, but then it also continues and      18 overlaps and folds over. You have to say it is -- it's      19 right next to it, inside this drawing.      20   MS. ADDISON: Q Okay. But it is adjacent then --      21 leaving aside the part that folds over, it's adjacent to      22 the plastic layer edge on the outside of the diaper      23 where it touches the plastic layer sheet?      24   <b>A It's adjacent on the inside and the outside</b></p>
<p style="text-align: right;">131</p> <p>1   the center cross-hatching of this what you're referring      2 to loop as shown in figure 3 of Exhibit 3, correct?      3   <b>A It's like those two layers that are inside of</b>      4 <b>this loop. One of those is the plastic layer edge.</b>      5   Q Okay.      6   MR. MANZO: Could I just offer a suggestion?      7   MS. ADDISON: Yes.      8   MR. MANZO: If you agree that any part of the      9 drawings from the utility patent correspond to those.      10 the ones of the utility patent have numbers and you      11 could use numbers to facilitate your interrogation.      12 It's up to you.      13   MS. ADDISON: Q Thanks. I want to stick with this      14 one.      15   If you use figure 3, the soft padding member      16 going from the inside to outside of the diaper is      17 reflected in cross-section right there as we've      18 previously discussed, correct?      19   <b>A Yes. Yes, I'm sorry.</b>      20   Q Okay. In addition to the going from the inside      21 to the outside that we have already discussed --      22   <b>A Right.</b>      23   Q -- where is the soft padding member adjacent to      24 the plastic layer edge? Can you use figure 3 and show</p>	<p style="text-align: right;">133</p> <p>1   <b>because it folds over.</b>      2   Q On figure 3 -- It seems to be easier for you to      3 hold it upside down, and I just want to make this easier      4 for you. On figure 3 of Exhibit 3, which is the inside      5 and which is the outside of the diaper?      6   <b>A I would say, and I haven't looked at this in a</b>      7 <b>while, but I would say that this is the inside portion</b>      8 <b>of the diaper right here, and then this is probably the</b>      9 <b>outside of the diaper.</b>      10   Q Okay. And would you just point to the part at      11 which the plastic layer edge is adjacent to the soft      12 padded member? Just point.      13   <b>A Yes. And I said it in reverse the last time.</b>      14 <b>But going from inside to outside, it is adjacent to it</b>      15 <b>right at the very top point as to where these inside</b>      16 <b>layers are, where it stops. Then it continues to</b>      17 <b>overlap and fold over. So it's adjacent and it also</b>      18 <b>folds over the top of the plastic layer edge.</b>      19   Q Okay. And in Exhibit 19 where, in your opinion,      20 is it adjacent?      21   <b>A I think I pointed that out previously. I'll do</b>      22 <b>it again.</b>      23   Q I think this was 19.      24   <b>A That's 19?</b></p>

**H I G H L Y C O N F I D E N T I A L**

<p style="text-align: right;">134</p> <p>1 Q Yes, that's 19.</p> <p>2 A Excuse me.</p> <p>3 Q Okay.</p> <p>4 A In this particular, it is adjacent to the plastic layer edge right up here. This is your plastic layer edge, and it is -- if you open it up, it's right next to it.</p> <p>5 Q Miss Tracy, I am advised that there may have been some developments in the pending application since you have produced documents to us. Do you know what I'm referring to?</p> <p>6 A Yes.</p> <p>7 Q Can you tell me what that is, please?</p> <p>8 MR. MANZO: At this point we must designate the transcript as confidential. Actually, we also have to designate as confidential the part where Mr. Baumgartner announced the serial number of the pending application.</p> <p>9 MS. ADDISON: Okay.</p> <p>10 THE WITNESS: Should I go into -- Okay.</p> <p>11 MR. MANZO: Go ahead.</p> <p>12 (Whereupon, the following portion of the deposition has been designated confidential.)</p> <p>13 THE WITNESS: Yes, in that the pending application we're asking them to accept my declaration.</p>	<p style="text-align: right;">136</p> <p>1 THE VIDEOGRAPHER: On the record 2:51.</p> <p>2 MS. ADDISON: With everyone's understanding that this deposition has been under time constraints and on limited scope, I understand that even with the time constraints and limited scope, I may have as much as a whopping eight minutes left.</p> <p>3 I am confident after I pass the witness I may think of eight more minutes of things to ask you, but at the time being I think this might be a logical time for me to conclude my questioning of you for purposes of today.</p> <p>4 I certainly have other things that we will ask you at the conclusion of your deposition at a later time.</p> <p>5 THE WITNESS: Okay.</p> <p>6 THE VIDEOGRAPHER: End of tape 2. Off the record 2:52.</p> <p>7 (Recess was taken.)</p> <p>8 THE VIDEOGRAPHER: This is tape 3, continuing deposition of Rhonda Tracy. Time is 2:59 on May 25, 2000. On the record.</p> <p>9 EXAMINATION by Mr. Smith:</p> <p>10 MR. SMITH: Q Good afternoon, Miss Tracy.</p>
<p style="text-align: right;">135</p> <p>11 MR. MANZO: Let me restate this so you have it accurately if you don't mind.</p> <p>12 MS. ADDISON: Thank you. I appreciate that.</p> <p>13 MR. MANZO: The examiner did not enter the declaration, and so a continuing -- a continuation -- a CPA application was filed requiring the examiner to enter the amendment in it and consider the declaration.</p> <p>14 And the last serial number will be abandoned on entry of the CPA application.</p> <p>15 MS. ADDISON: Okay.</p> <p>16 MR. MANZO: And we will file more claims and cite all the prior art, et cetera, and tender any transcripts you want us to tender.</p> <p>17 (Whereupon, this concludes the confidential portion of the deposition.)</p> <p>18 MS. ADDISON: Mr. Videographer, how much time have I used?</p> <p>19 THE VIDEOGRAPHER: One-hour-thirty-one.</p> <p>20 MS. ADDISON: Okay. I'd like to go off the record for about one or two minutes just to look through my documents to see if I'm at a logical conclusion point,</p> <p>21 or if there's anything else I need to ask you about.</p> <p>22 THE VIDEOGRAPHER: Off the record 2:49.</p> <p>23 (Recess was taken.)</p>	<p style="text-align: right;">137</p> <p>1 A Hi.</p> <p>2 Q My name is Craig Smith from Fish &amp; Richardson, and we represent Confab Holding Corporation in this lawsuit.</p> <p>3 If there are any questions that I ask you that you don't understand, please let me know and I'll try to clarify them for you.</p> <p>4 A Okay.</p> <p>5 Q I'd like to cover some of the ground that has already been covered today, and I apologize if there's some overlap, but please just bear with me.</p> <p>6 A Okay.</p> <p>7 Q Can we start with, when did you conceive of the invention that's disclosed in the '824 patent?</p> <p>8 A Well, actually I'm going to have to say it goes all the way back to 1986, my original disclosure,</p> <p>9 because that is extra padding. However you look at it, it's extra padding, so plain and simple. So I'm going to have to say 1986.</p> <p>10 Q Okay. What date would you place on that?</p> <p>11 A Well, I know my disclosure is stamped September 2, 1986, but I have to say I gave it a lot of thought even prior to that.</p> <p>12 I believe I may have come up with it sometime</p>

**H I G H L Y   C O N F I D E N T I A L**

<p style="text-align: right;">138</p> <p>1 before that and just didn't actually go through the 2 steps of doing something about it until that time of 3 September 2, 1986.</p> <p>4 Q Okay. Can you put a date on when you started 5 thinking about it?</p> <p>6 A I would have to say it might have been, oh, to 7 the best of my recollection, somewhere even in '85 when 8 I might have started thinking about it.</p> <p>9 Q Late '85?</p> <p>10 A Somewhere in '85, I believe. I can't say 11 specifically. It's an approximation.</p> <p>12 Q And how did you come up with this invention?</p> <p>13 A Because my son was the one that was suffering 14 from the diapers that were being made. And I would see 15 lines and red marks and little abrasions on his skin. 16 And I thought, you know, there's got to be a better way 17 than that, and so I decided just to do something about 18 it because there wasn't any diaper out there that had 19 this additional padding.</p> <p>20 Q And what were the lines, abrasions and scratches 21 I think you said a result of?</p> <p>22 A The elastic waistband particularly. I would say 23 more so there than in the legs.</p> <p>24 Q And can you be a little more specific about what</p>	<p style="text-align: right;">140</p> <p>1 extra comfort that was needed in the disposable diaper. 2 Q And this padding was covering these -- this 3 elasticized waist?</p> <p>4 A Well, it was to be within the waistband, and the 5 purpose of it was to provide extra cushioning or 6 padding.</p> <p>7 On how the manufacturer worked that in was not 8 really up to me, but it was supposed to be an extra 9 strip that was distinct and separate from the rest of 10 the diaper.</p> <p>11 Q Your initial attempt to solve this perceived 12 problem, though, was to put a piece of padding over the 13 waistband?</p> <p>14 A Correct, either inside or over. You know, it 15 didn't matter. I know my original design went from 16 inside to outside, but it was extra padding. And since 17 then, you know, it's covering both aspects, being inside 18 and also in contact with the wearer's skin.</p> <p>19 Q Did you ever develop a prototype that had the 20 padding inside of the waistband? When I'm using inside, 21 I'm actually talking in between the top layer and back 22 layer.</p> <p>23 A The only thing I did, if you say prototype, take 24 a diaper and just affix it inside of the waistband, yes,</p>
<p style="text-align: right;">139</p> <p>1 about the waistband?</p> <p>2 A Well, I think I mentioned this earlier, I'm 3 happy to explain again, that I believe the elasticized 4 waist had such threading in it that made it pretty stiff 5 at the time. It just wasn't as flexible and provided a 6 soft enough surface at the waistband in contact with the 7 skin.</p> <p>8 Otherwise, he wouldn't have had the red marks 9 that he had. He wasn't overweight or anything like 10 that. He was normal weight. So that's what really made 11 me think of it.</p> <p>12 Q How did your invention solve this perceived 13 problem?</p> <p>14 A Well, it seems like diaper companies are using 15 it, so they have to think it's valid. There's some good 16 reason for the application, because it's still being 17 used. So if it wasn't useful, they wouldn't be making 18 it.</p> <p>19 Q Right. Can you describe specifically though how 20 your invention cured this problem of the abrasions and 21 scratches that you were noticing?</p> <p>22 A Well, it provided, like I said, an extra layer 23 or a cushioning or padding that was not in the diapers 24 previously and, therefore, it seemed to give it that</p>	<p style="text-align: right;">141</p> <p>1 I did that. But did I present it to anyone as a model? 2 No, just in discussion.</p> <p>3 Q Now when you say inside, how are you using 4 inside?</p> <p>5 A Inside meaning inside the original batting or 6 the top layer batting. And also in between let's just 7 say the outer covering and the original bat.</p> <p>8 Q So was the padding touching the skin of the 9 intended user?</p> <p>10 A Are you talking about the modification that was 11 made?</p> <p>12 Q Correct, the padding.</p> <p>13 A On the inside, no, it's not touching.</p> <p>14 Q On the inside of --</p> <p>15 A On the inside -- on the inside portion of the 16 diaper at the waistband it is not directly touching the 17 skin of the wearer.</p> <p>18 Q Okay. Can I direct your attention to Exhibit 6, 19 page 32.</p> <p>20 A Okay.</p> <p>21 Q Do you recognize this document?</p> <p>22 A Yes, I do.</p> <p>23 Q And is that your signature on the bottom?</p> <p>24 A Yes.</p>

**H I G H L Y C O N F I D E N T I A L**

<p style="text-align: right;">142</p> <p>1 Q Does this document describe your invention?      2 A Yes, it does, back then.      3 Q What do you mean by back then?      4 A Well, it's obviously dated the 2nd day of      5 September, 1986. And so, yes, it goes back.      6 Q Previously you had testified that the term      7 inside as used in this document referred to the portion      8 of the diaper that would be facing the baby's skin: is      9 that accurate?      10 A That's correct.      11 Q And the term outside would then refer to the      12 portion of the diaper that would be facing away from the      13 baby's skin?      14 A Yes, the outside of where the outer covering is.      15 Q The outer cover. So if I use back sheet --      16 A Yes, correct.      17 Q -- that would mean the same thing to you?      18 A Describe it, yes.      19 Q Does this document at all describe placing the      20 padding between the top sheet and the back sheet?      21 A No, this one does not.      22 Q Can you turn to page 33 of Exhibit 6.      23 A Yes.      24 Q And do you recognize this document?</p>	<p style="text-align: right;">144</p> <p>1 Q I'd like to direct your attention to page 34 and      2 paragraph 12.      3 A Okay.      4 Q Can you read for me the typed portion starting      5 with cotton or gauze.      6 A Yes. Want me to read that for you?      7 Q Yes, please.      8 A Cotton or gauze-type lining/padding around the      9 waistband and leg area of diaper. Old method is just      10 plastic and provides no cushioning. Lining/padding is      11 contained on the inside, but can go to the outside as      12 well. Therefore, will protect skin when it overlaps.      13 Q And the term inside as used here is the same as      14 you've used it in the document at page 32, meaning the      15 topside layer, the layer that would be facing or      16 touching the baby's skin?      17 A Correct.      18 Q And outside refers to the back sheet layer?      19 A Correct.      20 Q Does anything in this document describe placing      21 the padding in between the back sheet and the top sheet?      22 A No, this one does not.      23 Q Can I direct your attention to paragraph 13,      24 which is located on page 34 of Exhibit 6.</p>
<p style="text-align: right;">143</p> <p>1 A Oh, yes, I believe.      2 Q Is that your signature on page 35?      3 A Yes.      4 Q What is this document?      5 A Let me refresh. It's been so long.      6 I believe this is a document that Robert Van      7 Epps had questioned me about, and then he -- he I      8 believe had it typed. I'm not sure about who actually      9 did the typing of this, but I know it was -- I believe      10 this was a document that he had had and questioned me      11 about.      12 Q Did Mr. Van Kamp prepare this document for you?      13 A I believe it was a standard document that he had      14 within his office.      15 Q And, excuse me, I just realized that it was Van      16 Epps.      17 A Yes, Van Epps.      18 Q And Mr. Van Epps prepared this document for you?      19 A I believe, yes, the questions, yes.      20 Q And you provided the answers that are shown      21 typed into the various --      22 A Yes.      23 Q -- spaces?      24 A Correct.</p>	<p style="text-align: right;">145</p> <p>1 A Yes.      2 Q Do you see where paragraph 13 says alternatives      3 to or variations of the method or apparatus?      4 A Yes.      5 Q What was the response that you gave to that?      6 A I said none, except that the different types of      7 cotton may be used to accomplish this result.      8 Q So at time that this document was created you      9 didn't know of any other methods or variations on what      10 you've disclosed in this document?      11 A Correct, at that time.      12 Q At what point in time did you -- Strike that.      13 So up until this point in time there's no disclosure      14 about placing the padding in between the top sheet and      15 the back sheet; is that accurate?      16 A Right. I wasn't that distinct of placing it in      17 between those areas, placing it between the top sheet      18 and back sheet, that's correct.      19 Q At what point in time did you actually disclose      20 the invention of putting the padding in between the top      21 sheet and the back sheet?      22 A I would have to say it was between I would      23 say -- oh, I'm trying to think. It would have to be      24 between the time I think this was first originated and</p>

**H I G H L Y C O N F I D E N T I A L**

<p style="text-align: right;">146</p> <p>1 the time that my first utility patent was then applied 2 for back in 1990, I believe. I'm not really clear on 3 the exact dates. So in between that time.</p> <p>4 Q So we're talking about the period between 5 February 1987 and when your first utility application 6 was applied for?</p> <p>7 A 1987 --</p> <p>8 Q I'm getting the February 1987 date from the 9 invention disclosure document that is labeled page 33 of 10 Exhibit 6.</p> <p>11 A I would have to say that's -- it's hard to say 12 an exact date as to when that came about, but I was 13 continually looking at diapers from day one on the 14 marketplace and constantly being aware of modifications 15 or uses that might be applicable. So I can't say an 16 exact date, but it was in between those times that I 17 mentioned to you earlier.</p> <p>18 Q And the times that we mentioned earlier, would 19 it be accurate to represent those times as from February 20 1987 until the date that you filed your first utility 21 application?</p> <p>22 A I would even say perhaps '86 because Mr. Van 23 Epps actually had some documents for me, I believe, 24 going back to March of '87, and he took a long time to</p>	<p style="text-align: right;">148</p> <p>1 little clearer. Are there any documents that you are 2 aware of that describe your invention of placing the 3 padding between the top sheet and the back sheet?</p> <p>4 A I believe when Mr. Manzo first took over my case 5 or if you want to say my applications, I believe it's 6 probably somewhere within those documents.</p> <p>7 Q What time frame was that?</p> <p>8 A I believe I came in contact with Mr. Manzo 9 around 1990. I actually came in contact with him prior 10 before that, excuse me, but where we really started 11 talking about entertaining him representing me.</p> <p>12 Q What type of documents would those be?</p> <p>13 A Well, I presented, I believe, papers and diapers 14 at that time.</p> <p>15 Q What type of papers?</p> <p>16 A Everything that I had. These documents here, 17 these exhibits if you will before you, such as 18 Defendant's Exhibit 6, I turned over those documents 19 once we agreed to work together.</p> <p>20 Q And what diapers were you referring to?</p> <p>21 A I'm referring to the discussion of the -- if you 22 want to call it a sandwich construction where it's in 23 between the top sheet and the back sheet. That was 24 definitely discussed between Mr. Manzo and myself.</p>
<p style="text-align: right;">147</p> <p>1 file, about six months later. 2 And I had paid him for a search. And the next 3 step was to file the application. And it was very 4 surprising that he had taken that long to actually file 5 the application in 1987.</p> <p>6 So all I can say is I believe it was somewhere 7 in between that time. And he and I had various 8 discussions of modifications, and then, of course, 9 resulting in this ornamental type of design, which was 10 what he was willing to do at that time.</p> <p>11 Q Do you know of any documents that exist that 12 describe your invention of adding padding between the 13 back sheet and the top sheet?</p> <p>14 A There are no documents I believe that describe 15 that. They were in verbal discussions.</p> <p>16 Q Verbal discussions with whom?</p> <p>17 A With my attorney, Van Epps, then Mr. Gilhooey 18 (phon.), then Mr. Manzo.</p> <p>19 Q Are there any documents that exist today that 20 describe the invention of placing the padding between 21 the top sheet and the back sheet?</p> <p>22 A On my behalf where I have -- I'm sorry, could 23 you ask that again?</p> <p>24 Q Sure, I'm sorry. Let's see if I can make it a</p>	<p style="text-align: right;">149</p> <p>1 Q I'd just like to ask you a few questions about 2 the design application.</p> <p>3 A Sure.</p> <p>4 Q If you could turn your attention to Exhibit 3.</p> <p>5 A Okay.</p> <p>6 Q Please direct your attention to page 5 of 7 Exhibit 3.</p> <p>8 A Correct.</p> <p>9 Q Is there any figure on page 5 that shows the 10 cross-section of the waistband?</p> <p>11 A The only place where it shows any cross-section 12 is down here in figure 3. It shows any -- I'm sorry.</p> <p>13 Q I'm sorry.</p> <p>14 A That's the only cross-section I believe that is 15 shown.</p> <p>16 Q And figure 3 shows the cross-section at the 17 leg-gathering portion; is that accurate?</p> <p>18 A Yes, it is. I'm just now noticing, yes, the 19 arrows are right here pointing to the leg area, correct.</p> <p>20 Q So there is no figure similar to figure 3 that 21 would describe or show the cross-section of the waist 22 portion?</p> <p>23 A Apparently not, because figure 3 is pointing to 24 this area here, which is obviously pointing to the leg</p>

**H I G H L Y C O N F I D E N T I A L**

<p style="text-align: right;">150</p> <p>1 area.</p> <p>2 Q So there's no way of telling from the figures on</p> <p>3 page 5 what the cross-section of that waist is?</p> <p>4 A Again, something Mr. Van Epps left out, but I</p> <p>5 would have preferred he included in the waistband, but</p> <p>6 it shows here in the leg area, correct.</p> <p>7 Q And you had stated previously that, just from</p> <p>8 looking at these figures, there's no way to tell that</p> <p>9 the portions on the extremes of the waist -- Strike</p> <p>10 that.</p> <p>11 From these figures is there any way to tell</p> <p>12 that the members that you have highlighted in pink are</p> <p>13 soft?</p> <p>14 A Well, I believe I discussed that with</p> <p>15 Mr. Baumgartner previously. And my contention is it's</p> <p>16 implied that whatever you add for a baby would be soft.</p> <p>17 That was my intention. That was my implication at the</p> <p>18 time, my honest intention.</p> <p>19 Q But the figure doesn't show that?</p> <p>20 A Right. I mean, the figure shows that there's an</p> <p>21 extra layer at the legs and the waist. And I would hope</p> <p>22 that one would imply that those are soft and it's not</p> <p>23 hard. Because -- I'm sorry.</p> <p>24 Q Go ahead.</p>	<p style="text-align: right;">152</p> <p>1 has it here obviously in the waistband in figure 1, and</p> <p>2 figure 1 is really no different than figure 2, which is</p> <p>3 including the legs.</p> <p>4 They both, you know, overlap from inside to</p> <p>5 outside. So I would have to say figure 3 is a</p> <p>6 representation of figure 1 at the waistband. He's just</p> <p>7 got arrows distinguishing that.</p> <p>8 Q But there's no figure that shows that?</p> <p>9 A Right.</p> <p>10 Q Is there any figure in this design application</p> <p>11 marked Defendant's Exhibit 3 that shows padding between</p> <p>12 the top sheet and the back sheet?</p> <p>13 A No, I don't believe. Padding between the top</p> <p>14 sheet and the back sheet? Excuse me, let me rethink</p> <p>15 that for a moment.</p> <p>16 There is padding between the top -- if I may</p> <p>17 rephrase, there is padding between the top sheet here,</p> <p>18 which I think is the inside of the waist portion. And</p> <p>19 the back sheet here, this cross-section has some padding</p> <p>20 in it.</p> <p>21 And I believe we discussed that earlier,</p> <p>22 because she asked me if there were three layers and like</p> <p>23 a layer in between be padding.</p> <p>24 Q What I was referring to is the padding at the</p>
<p style="text-align: right;">151</p> <p>1 A I just want to add that he does use at least the</p> <p>2 word a new ornamental design for a disposable diaper,</p> <p>3 which at least saves me, I think, to the portion where</p> <p>4 disposable diapers at that time were no longer girded by</p> <p>5 rubber pants, you know, which are hard. So they tried</p> <p>6 to improve that, but -- make it soft, but yet also</p> <p>7 disposable. That's the only thing I have to go on, is</p> <p>8 an implied intention.</p> <p>9 Q And from figure 3 you can't even tell if there's</p> <p>10 extra material on the waist portions because there's no</p> <p>11 cross-section for those waist portions?</p> <p>12 A There is no --</p> <p>13 MR. MANZO: Objection, argumentative.</p> <p>14 MR. SMITH: Q Could you repeat your answer? I'm</p> <p>15 sorry.</p> <p>16 A I would say it appears to be showing primarily</p> <p>17 in the leg areas. But may I add something to that,</p> <p>18 Counsel?</p> <p>19 My intention of extra padding here was in the</p> <p>20 waist and legs. So what he is showing here in figure 3</p> <p>21 where it's pointing at this leg area here, it's no</p> <p>22 different than what's in the waistband.</p> <p>23 So if you want to say is this a cross-section</p> <p>24 of the waistband, I would have to say, yes, because he</p>	<p style="text-align: right;">153</p> <p>1 waistline.</p> <p>2 A Well, what's interesting is the more layers you</p> <p>3 have, the more padding you have. So you do have what's</p> <p>4 inside of this loop area. That is padding.</p> <p>5 I mean, how could you -- it may be the inside</p> <p>6 portions, but I would have to say that is padding. And</p> <p>7 the extra layer that I put in on the outside -- I'd say</p> <p>8 when you combine those together, the three of those</p> <p>9 together, it makes it have a little more padding by</p> <p>10 combining them together.</p> <p>11 Q My question was more directed towards the</p> <p>12 padding --</p> <p>13 A In the waistband itself?</p> <p>14 Q -- between the top layer and the back layer in</p> <p>15 the waistband portion of the diaper.</p> <p>16 A What it shows here is a loop, and that loop is</p> <p>17 padding. And the loop goes from the inside to the</p> <p>18 outside of the diaper. And that's the best that I can</p> <p>19 tell you.</p> <p>20 Is it inside of the waistband is what you're</p> <p>21 trying to ask me, Counsel?</p> <p>22 Q My question was, does this design application</p> <p>23 show a figure where the padding is between the top sheet</p> <p>24 and the back sheet in the waist portion?</p>

**H I G H L Y   C O N F I D E N T I A L**

<p style="text-align: right;">154</p> <p>1 MR. MANZO: Asked and answered.      2 MR. SMITH: Q You can answer that.      3 A Okay. That's a tough one, but I would say no.      4 Q Okay. I'd like to now go to Exhibit 5. This,      5 as you may recall, is your Declaration in Support of a      6 Petition to Make Special.      7 A Yes.      8 Q Do you remember this document?      9 A Yes, I do.      10 Q Okay.      11 A Let me get to that. Here we go. Okay.      12 Q And I'd like to direct your attention to page      13 18. I know you've been shown this before.      14 A Yes.      15 Q And the handwriting that is on page 18 you said      16 is your own; is that correct?      17 A Yes.      18 Q And I just want to clarify. The writing that      19 says from inside to outside, there you're referring      20 again from the inside the top sheet to the back sheet of      21 the waist?      22 A Correct. And I'm referring to just this      23 advertisement as you see it visually. Not to say that      24 this advertisement represents what this moisture-proof</p>	<p style="text-align: right;">156</p> <p>1 top layer and the back layer, and we're talking about      2 actually going -- it would be the portion of the padding      3 that would touch the baby's skin would go over and go to      4 the back -- the back sheet of the diaper.      5 A That's the way the advertisement appeared on all      6 outside appearances at the time, just looking at the      7 advertisement.      8 Q And that's what you meant when you wrote that?      9 A Right, just how it looked.      10 Q And if you could turn to page 19, again, this      11 has handwriting on it that you said is your own; is that      12 correct?      13 A Correct.      14 Q And here, again, it's written the waistline is      15 designed like mine (inside to out). And there you're      16 referring again that the padding is touching the baby on      17 one side and coming over the top layer and back layer      18 and then landing on the back layer?      19 A Correct. That's what got my attention when I      20 first glanced at it, was how it looked, and it looked      21 like it was mimicking my design.      22 Q Okay. I'd now like to go to Exhibit 1, which is      23 the '824 patent.      24 A Yes.</p>
<p style="text-align: right;">155</p> <p>1 waistshield is contending once you get inside the      2 waistband.      3 It appears to be that way from the      4 advertisement, but I'm not saying that this      5 advertisement represents what is actually inside the      6 waistband that they're advertising. I'm not saying      7 that. It was -- I'm sorry.      8 Q If you had something more, please.      9 A No, that's okay.      10 Q But your statement here and the arrows that      11 you're drawing are showing that the -- there is padding      12 that overlaps --      13 A I'm saying this represents just from -- just      14 from the picture -- Again, I want to clarify. I'm not      15 saying that this picture represents what's actually in      16 the waistband once you open it up.      17 It just appeared at first glance from the      18 outside and not tearing into the diaper, spotting this      19 at the grocery store, that it was going from the inside      20 to the outside as my design did. That's all I'm saying.      21 Q Okay. I apologize for any confusion.      22 A That's okay.      23 Q I just wanted to make sure I understood that      24 inside to outside wasn't talking about in between the</p>	<p style="text-align: right;">157</p> <p>1 Q I would like to direct your attention to claim      2 1, which starts at the bottom of column 2.      3 A Okay.      4 Q The first paragraph of claim 1 start "a body      5 portion." Do you see that paragraph?      6 A Yes.      7 Q And do you see the portion of that paragraph      8 that refers to the body portion being shaped so that      9 said diaper may extend about a waist and crotch of a      10 wearer and have an inside and an outside with respect to      11 the wearer?      12 A Yes.      13 Q Now, there the inside and outside again refers      14 to an inside that would be touching the skin of the      15 baby, or the wearer, and the outside, which would be on      16 the outer or back layer of the diaper?      17 A Correct.      18 Q Moving to paragraph 3, which start "at least two      19 body portion layers." do you see that?      20 A Yes.      21 Q It refers to a plastic layer having an edge at      22 the edge of the diaper.      22 A Correct.      23 Q Do you see that?</p>

**H I G H L Y   C O N F I D E N T I A L**

<p style="text-align: right;">158</p> <p>1 A Yes.</p> <p>2 Q Could you show me in the figures that are on the 3 second page of the patent where the plastic layer is?</p> <p>4 And if you want to give me a number that refers to the 5 plastic layer, that would be okay.</p> <p>6 A I would have to say that is -- Excuse me.</p> <p>7 Figure 2 on the left appears to be No. 24 on the left, 8 but on the right No. 24 also goes inside the waistband. 9 That is the edge, figure 2, No. 24 on the left.</p> <p>10 MR. MANZO: Could I hear that answer again, please.</p> <p>11 (Record read.)</p> <p>12 MR. SMITH: Q So are you saying that No. 24 is the 13 plastic layer?</p> <p>14 A When you told me to specifically look at the 15 figure and -- Didn't you ask me the edge?</p> <p>16 Q I just said the plastic layer.</p> <p>17 A Oh, the plastic layer. I thought you were 18 referring to the edge. I'm sorry, Counsel.</p> <p>19 Q That's okay.</p> <p>20 A You're talking about the outer plastic layer 21 then?</p> <p>22 Q I'm just looking for where in the figures it 23 refers to the plastic layer having an edge at the edge 24 of the diaper --</p>	<p style="text-align: right;">160</p> <p>1 that would be helpful -- May I do that?</p> <p>2 Q The pointing didn't seem to work very well, so 3 why don't we -- Well, look into the specification.</p> <p>4 Maybe you could show me where in the written description 5 of the patent it refers to this plastic layer having an 6 edge at the edge of the diaper.</p> <p>7 A In figure 4 specifically you're speaking of?</p> <p>8 Q If you can find it in reference to other 9 figures, that's fine, too.</p> <p>10 A I would have to say 42 of a plastic material and 11 the like located on each of the enlarged sections --</p> <p>12 Wait a minute. That's in figure 2, excuse me.</p> <p>13 Q 42 is also in figure 4.</p> <p>14 A Where in figure 2 do you see it? I see it here 15 in 4, but you're saying it's in figure 2 as well?</p> <p>16 Q Oh, no. I was saying it's in figure 4.</p> <p>17 A I thought you were saying it's in figure 2 as 18 well.</p> <p>19 Q So you're referring to item 42?</p> <p>20 A I would have to say, according to how this looks 21 to me, from what I can see, this is the edge right here, 22 and it is referring to -- as it reads here, 42, I'm 23 looking at line 34, column 2, 42 of a plastic material 24 and the like located on each of the enlarged sections.</p>
<p style="text-align: right;">159</p> <p>1 A Having an edge.</p> <p>2 Q -- which is the third paragraph of claim 1.</p> <p>3 A Yes, plastic edge at the edge of the diaper. 24 4 on the left, I believe.</p> <p>5 MR. MANZO: Now, your question is directed to what 6 number in the figures does that --</p> <p>7 MR. SMITH: If there is a number, that's what I was 8 asking.</p> <p>9 THE WITNESS: Yes, I would have to say the plastic 10 layer edge, if you're referring to a number, it's figure 11 2 on the left-hand side, No. 24.</p> <p>12 MR. SMITH: Q And could you point to the edge or 13 give me the number in figure 4?</p> <p>14 A Excuse me one moment.</p> <p>15 Q Sure.</p> <p>16 A You're saying in figure 4. The plastic layer 17 edge appears to be -- Let me double-check.</p> <p>18 I would have to say it's within -- it's this 19 edge right here. I don't know if I could mark that 20 edge.</p> <p>21 Q Is there a number associated with --</p> <p>22 A It's hard to say on this copy because the black 23 is very, very bold. I'm not sure where the black starts 24 or where it ends. But if I could just point to it, if</p>	<p style="text-align: right;">161</p> <p>1 But then it says 22 in figure 2, enlarged section of 22.</p> <p>2 So I would have to say it is described 34, 3 column 2, 42 of plastic material and the like located on 4 each of the enlarged sections.</p> <p>5 Q Okay. So the portion of the written description 6 that refers to a plastic layer having an edge at the 7 edge of the diaper is referenced here as item 42 in 8 figure 4; is that correct?</p> <p>9 A It is claiming it to be plastic material and the 10 like. Where it talks about the edge, of course, is what 11 is -- what's in actually the claims themselves. I would 12 have to read the entire descriptions all over again. I 13 don't have them memorized.</p> <p>14 MR. MANZO: Counsel, do you want to invite her 15 attention to where it says edge?</p> <p>16 THE WITNESS: The diaper 2 in its flat configuration 17 as shown in figure 2 is formed as a single body 20 18 having enlarged end portions 22 which terminate at edges 19 24 from that top waistband portion 10 in figure 1.</p> <p>20 So I believe it is covered in column 2, 16, 17 21 and 18. Is that what we were --</p> <p>22 MR. SMITH: Q Now, you mentioned No. 24 with 23 reference to figure 2.</p> <p>24 A Let me see. Yes, I mentioned that earlier, 24</p>

**H I G H L Y C O N F I D E N T I A L**

<p>1   <b>on the left.</b></p> <p>2   Q   Yes.</p> <p>3   A   <b>And it describes it terminate at the edges 24.</b></p> <p>4   Q   And in column --</p> <p>5   A   <b>I just feel a little pressured right now</b></p> <p>6   <b>because, you know, it has to be in here. I'm just not</b></p> <p>7   <b>picking it up right at the moment in the description.</b></p> <p>8   Q   If I could direct your attention to line --</p> <p>9   looks like line 28 in my copy, it is the paragraph in</p> <p>10   column 2 that starts "referring now to figures 1, 2 and</p> <p>11   4."</p> <p>12   A   <b>Uh-huh.</b></p> <p>13   Q   Do you see where it refers to border sections</p> <p>14   40, 42?</p> <p>15   A   <b>Yes, and I mentioned 42 earlier.</b></p> <p>16   Q   Correct. So I just wanted to confirm that the</p> <p>17   plastic layer having an edge at the edge of the diaper,</p> <p>18   we're talking about here, the section 42?</p> <p>19   A   <b>Yes, that's what I had mentioned earlier.</b></p> <p>20   Q   Okay.</p> <p>21   A   <b>Okay.</b></p> <p>22   Q   Can you direct my attention in the figures to</p> <p>23   the soft padding member that is described in claim 1?</p> <p>24   A   <b>Soft padding member would be 24 here, the inside</b></p>	<p>162</p> <p>1   <b>50 on the left, 24 on the right.</b></p> <p>2   Q   So that's the soft padding member of claim 1?</p> <p>3   A   <b>Correct.</b></p> <p>4   Q   Can you direct my attention to where in the</p> <p>5   specification it refers to the padding being between the</p> <p>6   top sheet and the back sheet?</p> <p>7   A   <b>You want me to point it out in the figures?</b></p> <p>8   Q   The written description of the patent.</p> <p>9   A   <b>At least -- I'm going to claim 1, starting with</b></p> <p>10   <b>paragraph 3, at least two body portion layers, including</b></p> <p>11   <b>a layer of liquid absorbent material and a plastic layer</b></p> <p>12   <b>having an edge at the edge of the diaper.</b></p> <p>13   Q   Excluding the claims, which we're going through</p> <p>14   one by one. Not looking at the claims, looking at the</p> <p>15   column 1 and column 2, up until the claims start, where</p> <p>16   in that portion of the written description --</p> <p>17   A   <b>Oh, I see, before the claims.</b></p> <p>18   Q   Exactly.</p> <p>19   A   I'm sorry.</p> <p>20   Q   That's okay.</p> <p>21   A   <b>Summary of the invention. Okay, I did find it.</b></p> <p>22   <b>It's in the summary, to answer your question.</b></p> <p>23   <b>When you talk about specific summary of the</b></p> <p>24   <b>invention, going down to column 1, line 44, the</b></p>
<p>163</p> <p>1   <b>of the diaper as it's shown in figure 2. And here it is</b></p> <p>2   <b>reflected 50, figure 2, as well.</b></p> <p>3   Q   And when you're talking about the inside of the</p> <p>4   diaper --</p> <p>5   A   <b>Inside the waistband.</b></p> <p>6   Q   Inside the waistband that would be in contact</p> <p>7   with the wearer?</p> <p>8   A   <b>That would be in contact with the wearer,</b></p> <p>9   <b>correct.</b></p> <p>10   Q   Okay.</p> <p>11   A   <b>Wait a minute. Are you talking about claim No.</b></p> <p>12   <b>1?</b></p> <p>13   Q   That's what we were referring to. I was asking</p> <p>14   about the soft padding member.</p> <p>15   A   <b>The soft padding member in claim 1 is inside of</b></p> <p>16   <b>the diaper waistband. It's not in contact with the</b></p> <p>17   <b>wearer.</b></p> <p>18   Q   I was asking you where --</p> <p>19   A   <b>It is still here within the waistband portion on</b></p> <p>20   <b>figure 2.</b></p> <p>21   Q   Figure 2 shows the padding within the waistband</p> <p>22   meeting between the top and the back sheet?</p> <p>23   A   Well, it's described in the waistband portion,</p> <p>24   and that's where the waistband portion is, 24 and 50.</p>	<p>165</p> <p>1   <b>protection provided by the padding not only exists</b></p> <p>2   <b>within the waistline portion of the diaper, but is also</b></p> <p>3   <b>present at the top and outside of the diaper where the</b></p> <p>4   <b>skin may overlap when worn. So it says exists within</b></p> <p>5   <b>the waistline portion.</b></p> <p>6   Q   Can I direct your attention to the second</p> <p>7   sentence of the summary of the invention.</p> <p>8   A   <b>Uh-huh.</b></p> <p>9   Q   Could you read that second sentence for me?</p> <p>10   A   <b>The padding as herein disclosed covers the</b></p> <p>11   <b>plastic waistline band from inside to outside of the</b></p> <p>12   <b>diaper when worn by the baby.</b></p> <p>13   Q   And that inside to outside is referring to</p> <p>14   inside being the surface touching the baby going to the</p> <p>15   outside, which would be the back sheet?</p> <p>16   A   <b>Claim 3, yes.</b></p> <p>17   Q   And so the padding would be going inside to</p> <p>18   outside in that feature?</p> <p>19   A   <b>Yes.</b></p> <p>20   Q   That's not talking about padding in between the</p> <p>21   back sheet and the top sheet; is that correct?</p> <p>22   A   <b>Correct. That's where it's describing claim 3,</b></p> <p>23   <b>from inside to outside.</b></p> <p>24   Q   So it's your understanding that the last</p>

**H I G H L Y C O N F I D E N T I A L**

<p style="text-align: right;">166</p> <p>1 sentence of paragraph 1 of the summary of the invention      2 indicates that the within the waistline is talking about      3 the padding being actually between the top sheet and the      4 back sheet; is that correct?</p> <p>5   <b>A That's what within is, yes.</b></p> <p>6   <b>Q But that's your understanding?</b></p> <p>7   <b>A Yes.</b></p> <p>8   <b>Q Okay. Maybe you can help me understand. The</b>      9 <b>last sentence of the first paragraph of the summary of</b>      10 <b>invention states that the protection provided by the</b>      11 <b>padding not only exists within the waistline portion of</b>      12 <b>the diaper, but is also present at the top and outside</b>      13 <b>of the diaper where the skin may overlap when worn.</b></p> <p>14   <b>A It's talking about two different areas I believe</b>      15 <b>there.</b></p> <p>16   <b>Q Could you describe the two different areas that</b>      17 <b>you're talking about?</b></p> <p>18   <b>A The protection provided by the padding not</b>      19 <b>only -- so he's saying it's not exclusive to that -- not</b>      20 <b>only exists within the waistline portion, within being</b>      21 <b>inside of the diaper, but also -- so it means in</b>      22 <b>addition to -- present at the top and the outside of the</b>      23 <b>diaper where the skin may be overlap -- where the skin</b>      24 <b>may overlap when worn.</b></p>	<p style="text-align: right;">168</p> <p>1 front to back. Inside or within -- within something is      2 inside something. So within isn't the same as going      3 from front to back as we were describing earlier, the      4 inside to the outside portion.</p> <p>5   <b>Q Claim 3, however, states that its said first</b>      6 <b>strip wraps around the inside to the outside of the</b>      7 <b>waistband; whereas the sentence, as you have interpreted</b>      8 <b>it, doesn't cover padding on the inside of the</b>      9 <b>waistband; is that correct?</b></p> <p>10   <b>A Well, he calls it inside of the waistline</b>      11 <b>portion, and that's where your waistband usually is, is</b>      12 <b>at the waistline portion. It's not in your abdomen.</b></p> <p>13   <b>I</b><b>t's not in your hip. It's at the waistline portion.</b></p> <p>14   <b>Q Right. The question I was getting towards was</b>      15 <b>more the statement you had made where it covers both</b>      16 <b>claim 1 and claim 3, and you're referring to the last</b>      17 <b>sentence of the summary of the invention, paragraph 1.</b></p> <p>18   <b>A Correct.</b></p> <p>19   <b>Q My question was with respect to claim 3. Claim</b>      20 <b>3 states that it's covering a padding that goes from the</b>      21 <b>inside to the outside. So it covers the portion of the</b>      22 <b>diaper where the skin of the baby would be wearing it to</b>      23 <b>the outside of the diaper where someone could be</b>      24 <b>touching it, the back sheet say of the diaper.</b></p>
<p style="text-align: right;">167</p> <p>1   <b>Q The portion of the sentence that starts with</b>      2 <b>"but is also," that's referring to the padding that</b>      3 <b>would be on top of the edge of the diaper and also on</b>      4 <b>the portion of the diaper that would be on the back</b>      5 <b>sheet; is that correct?</b></p> <p>6   <b>A Correct.</b></p> <p>7   <b>Q So this sentence, according to you, is not</b>      8 <b>referring to any portion of the padding that would be in</b>      9 <b>contact with the wearer?</b></p> <p>10   <b>A I'm not saying that. I said that this last</b>      11 <b>paragraph reads that it's not only within the waistline.</b></p> <p>12   <b>That's not the only place where it exists. But it also</b>      13 <b>is present at the top and the outside of the diaper</b>      14 <b>where the skin may overlap when worn.</b></p> <p>15   <b>I think it's very specific. You know, it's</b>      16 <b>talking about it's not only inside but also -- he's</b>      17 <b>talking about claim No. 3 -- going from the inside to</b>      18 <b>the outside as well. They're two different features.</b></p> <p>19   <b>Q So the distinction being made in that sentence</b>      20 <b>is that the padding can be inside the top sheet or the</b>      21 <b>back sheet, or it can be on top of the plastic edge, or</b>      22 <b>it can be on the back sheet?</b></p> <p>23   <b>A He is covering both claim 1 and claim 3 in that</b>      24 <b>particular paragraph, because inside is definitely not</b></p>	<p style="text-align: right;">169</p> <p>1   <b>A Again, I just want to say this is the summary.</b></p> <p>2 <b>You know, when you summarize, you don't include every</b>      3 <b>single word that is in your -- let's say a report of</b>      4 <b>something you were doing; whether it be for school or</b>      5 <b>for somewhere else.</b></p> <p>6   <b>Your summary is just condensed to summarize.</b></p> <p>7 <b>It doesn't have everything specifically outlined,</b>      8 <b>otherwise it wouldn't be a summary. So that's how I</b>      9 <b>answer that.</b></p> <p>10   <b>Q That last sentence though, is it your</b>      11 <b>interpretation that the last sentence just doesn't cover</b>      12 <b>padding that would be on the inside of the waist portion</b>      13 <b>touching the wearer?</b></p> <p>14   <b>A It says -- I believe it says -- This is how I</b>      15 <b>interpret it. I interpret it to say that it exists</b>      16 <b>within the waistline portion. So it's within. It's</b>      17 <b>inside of that waistline portion.</b></p> <p>18   <b>Q But not touching it?</b></p> <p>19   <b>A That one, that part is not touching when it's</b>      20 <b>within.</b></p> <p>21   <b>Q Okay.</b></p> <p>22   <b>A The other part of the same sentence, where it</b>      23 <b>says but it is also present, covers claim 3 where it's</b>      24 <b>going from inside to outside, which does touch.</b></p>

**H I G H L Y C O N F I D E N T I A L**

<p style="text-align: center;">170</p> <p>1 Q What portion of that sentence covers the padding 2 that would be touching the child on the inside of the 3 waistline?</p> <p>4 A Well, it's where it says but also present at the 5 top and outside of the diaper, within the waistline 6 portion, but is also present at the top and the outside 7 when it overlaps, when it's worn. Your skin can touch 8 it at the top when it's overlapping.</p> <p>9 Q My question was directed to what portion of that 10 sentence refers to the padding claimed in claim 3 that 11 refers to the inside of the waistband portion that would 12 be touching the wearer of the diaper.</p> <p>13 A Well, he's talking about -- Let me read this 14 again.</p> <p>15 Well, it doesn't say at the top edge. It says 16 at the top. So when you're talking about the waistline, 17 it could be the top of the waistline area. It doesn't 18 say the edge of the waistline area. So it says at the 19 top of the waistline area. So if this were the top of 20 the waistline area, that would be touching the skin.</p> <p>21 Q So you're interpreting top to be the inside of 22 the --</p> <p>23 A Not --</p> <p>24 Q -- diaper, meaning the top layer?</p>	<p style="text-align: center;">172</p> <p>1 layer?</p> <p>2 A And it's not in the claims, okay.</p> <p>3 Q Correct.</p> <p>4 A Here we go. I just came upon it.</p> <p>5 Okay. Column 2, line 10, one or more layers 6 18, figs 3 and 4, of a liquid absorbent material, such 7 as cotton, pulp and the like, is imposed -- is imposed 8 between, excuse me, the outer sheet and the inner 9 sheet -- the outer sheet 16A and the inner sheet 16B as 10 is conventional.</p> <p>11 Q Isn't that talking about the liquid absorbent 12 material --</p> <p>13 A It is.</p> <p>14 Q -- not the --</p> <p>15 A Because as I read on, it said crotch area. I 16 spoke too soon, excuse me.</p> <p>17 Q That's okay.</p> <p>18 MR. MANZO: Can we go off the record while she 19 completes her review?</p> <p>20 THE WITNESS: Yes, I would like to because when I'm 21 hearing talking, I'm listening.</p> <p>22 THE VIDEOGRAPHER: Off the record 3:58. (Recess was taken.)</p> <p>23 THE VIDEOGRAPHER: On the record 4:08.</p>
<p style="text-align: center;">171</p> <p>1 A Just the top part of this waistband area. I 2 mean, it's not specific to say that it's just the edge. 3 It's saying the top of the waistline portion. 4 In which you say this is the top of the 5 waistline portion and this is the bottom of the 6 waistline portion, I'm referring to it as this is the 7 top of the waistline portion.</p> <p>8 Q Where else in the specification -- again, we're 9 talking about column 1 and column 2, not including the 10 claims -- where it refers to the padding or the soft 11 padding member being between the top layer and the back 12 layer?</p> <p>13 A You're not talking about the claims.</p> <p>14 Q Correct.</p> <p>15 A I'm going to take a moment to refresh myself, 16 okay?</p> <p>17 Q Sure.</p> <p>18 A Thank you. May I use your highlighter for one 19 moment?</p> <p>20 I'm going to stop right here. Could you ask me 21 the question again so I'm thinking of it as I'm reading?</p> <p>22 Q The question was, where in the written 23 description of the patent does it talk about putting the 24 soft padding member between the top layer and the back</p>	<p style="text-align: center;">173</p> <p>1 THE WITNESS: First of all, I want to apologize. 2 I'm getting very tired.</p> <p>3 MR. SMITH: Q That's quite all right. We're 4 almost finished.</p> <p>5 A To answer your question, no, it doesn't 6 specifically say. You had asked me --</p> <p>7 Q Okay. So there's no specific reference in 8 column 1 or column 2, excluding the claims --</p> <p>9 A Correct.</p> <p>10 Q -- that refers to placing the padding material 11 between the top sheet and the back sheet along the 12 waistline?</p> <p>13 A Correct.</p> <p>14 Q I'd like to direct your attention to claim No. 15 10, which is located in column 3 down at the bottom of 16 the column.</p> <p>17 Do you see the second paragraph that starts 18 "attachment devices"?</p> <p>19 A Yes.</p> <p>20 Q Do you see the portion of that sentence that 21 reads said diaper may be closed about a waist and crotch 22 of a wearer and have an inside and an outside with 23 respect to the wearer?</p> <p>24 A Yes.</p>

**H I G H L Y   C O N F I D E N T I A L**

<p style="text-align: right;">174</p> <p>1 Q The inside and outside referred to there is 2 referring to the inside of the diaper that would be 3 touching the wearer, and then the outside of the diaper, 4 which would be on the back sheet; is that correct?</p> <p>5 A Correct.</p> <p>6 MR. MANZO: The inside is the part that gets wet 7 first.</p> <p>8 MR. SMITH: Q I'd like to now direct your attention 9 to the last paragraph of claim 10 that starts "a first 10 soft padding member." Do you see that?</p> <p>11 A Uh-huh.</p> <p>12 Q Is there a reference in the written description 13 of the patent, excluding the claims, that refers to the 14 soft padding member of claim 10?</p> <p>15 MR. MANZO: Are you asking in <i>ipissima verbis</i>?</p> <p>16 MR. SMITH: Come again?</p> <p>17 MR. MANZO: Are you asking whether those explicit 18 words are in the specification?</p> <p>19 MR. SMITH: Q Did you understand the question?</p> <p>20 A Could you just repeat it for me again, please?</p> <p>21 Q Sure. Let's see if I can clear up any 22 confusion.</p> <p>23 A I'm not confused, but it would be better if you 24 just ask it again.</p>	<p style="text-align: right;">176</p> <p>1 the inside of said diaper with respect to the wearer, 2 thereby to present a soft surface at said inside of 3 the diaper waistband despite the plastic material at the 4 edge of the body portion.</p> <p>5 So if it says inside of the diaper waistband, 6 you know, I would take that literally that it's inside 7 of the waistband area. And they're speaking strictly of 8 the waistband. Did I answer your question?</p> <p>9 Q I don't think so.</p> <p>10 A I don't think I did either.</p> <p>11 Q Let's try it again.</p> <p>12 A Okay.</p> <p>13 Q The portion that I'm looking at says inside of 14 said diaper with respect to the wearer. Do you see 15 that?</p> <p>16 A Uh-huh.</p> <p>17 Q And what I'm asking, is that referring to the 18 inside of the diaper portion that would be touching the 19 wearer of the diaper?</p> <p>20 A I understand that, and I would say that it is 21 inside that portion that would be touching the diaper.</p> <p>22 I mean that would be touching the individual, excuse me.</p> <p>23 Q That's okay. So the soft padding member would 24 be located on the portion of the waistband that would be</p>
<p style="text-align: right;">175</p> <p>1 Q Certainly. I just want to direct your attention 2 to the last paragraph of claim 10, which starts "a first 3 soft padding member." Do you see that?</p> <p>4 A Yes, I do.</p> <p>5 Q Do you see the portion of that paragraph that 6 states the soft padding member being located at 7 substantially only along the waistband at the inside of 8 said diaper with respect to the wearer, thereby to 9 present a soft surface at said inside of the diaper 10 waistband despite the plastic material at the edge of 11 the body portion?</p> <p>12 A Yes, I'm reading that.</p> <p>13 Q When it's referring to the inside of said 14 diaper, are we talking again about the inside portion of 15 the diaper that would be in contact with the wearer of 16 the diaper?</p> <p>17 A Give me a moment.</p> <p>18 Q Certainly.</p> <p>19 A Well, it says here, if I may answer you 20 correctly, that it is at the inside of said diaper.</p> <p>21 Just above that he is explaining the waistband 22 portion. So I would have to believe that the soft 23 padding member, right after that, where it continues 24 being located substantially only along the waistband at</p>	<p style="text-align: right;">177</p> <p>1 touching the wearer so that the padded member touches 2 the wearer of the diaper?</p> <p>3 A I believe when it says --</p> <p>4 MR. MANZO: Objection. You're really asking for a 5 legal conclusion here when you're asking this witness to 6 interpret patent claims.</p> <p>7 My objection is registered. Go ahead and 8 answer.</p> <p>9 THE WITNESS: Okay. If I may make a distinction, 10 claim 15, since we're talking about claims, okay, it 11 talks about one strip of material forming a soft surface 12 for contact with the skin of the individual at least 13 one of the border edges. I would say that that is very 14 specific where it says in contact with the skin of the 15 individual.</p> <p>16 Here it is saying inside. It says only along 17 the waistband at the inside of said diaper. It's not 18 saying that it's particularly behind a bat. It's not 19 saying that it's -- it's inside of the diaper. I would 20 say, itself. And it could be interpreted to be inside 21 of the waistband -- I'm going to go along with Mr. Manzo 22 on this one, if I may answer in that fashion, and I 23 think it's because I am getting extremely tired and I am 24 not thinking as well as I should right now.</p>

**H I G H L Y C O N F I D E N T I A L**

<p style="text-align: right;">178</p> <p>1 Substantially only at the waistband at the 2 inside of said diaper with respect to the wearer, 3 thereby to present a soft surface at said inside of the 4 diaper waistband. It says -- again, it re-emphasizes 5 two lines down that it's inside of the diaper waistband. 6 So if I may demonstrate, this is the diaper 7 waistband portion here, and it's said to be inside of 8 that. That's my answer.</p> <p>9 MR. SMITH: Q Does that interpretation make sense 10 in light of the language that says inside of said diaper 11 with respect to the wearer?</p> <p>12 A <b>The one who's wearing it, with respect to the wearer.</b></p> <p>14 Q Doesn't that refer, though, to the inside of the 15 diaper portion that would be touching the wearer, such 16 that the soft padding member would touch the wearer?</p> <p>17 MR. MANZO: Objection, argumentative.</p> <p>18 THE WITNESS: The only way I can say is, again, you 19 know, inside of the diaper. I don't know if you want to 20 put limitations on the word inside or not, and that's 21 how I'm going to answer that, not being a patent 22 attorney. So that's how I can best answer it.</p> <p>23 MR. SMITH: Q Does this inside refer to the term 24 inside that you've used with respect to inside the</p>	<p style="text-align: right;">180</p> <p>1 <b>you're going to get a soft surface.</b> 2 Q The claim, though, says that it presents a soft 3 surface despite the plastic material at the edge. If 4 the padding is internal to the waistband meeting between 5 the top sheet and the back sheet, how can it provide a 6 soft surface to the plastic edge?</p> <p>7 A <b>Okay, I will explain that. When you have a plastic edge, just by itself --</b></p> <p>9 MR. MANZO: Objection, mischaracterizes the claim. 10 Proceed.</p> <p>11 THE WITNESS: As I was trying to explain, it's just 12 like the edge of a piece of paper. It's sharp when it's 13 singularly by itself. You can get a papercut.</p> <p>14 To me, if it's near the plastic edge, that edge 15 singularly by itself can be sharp. When you add extra 16 layers to it, it's not as sharp. Just as it would be -- 17 you're less likely to get cut from paper with 18 thicknesses of layers together than you are with a 19 single layer of paper.</p> <p>20 And I would say that it is not -- to present a 21 soft surface despite the plastic material at the edge, 22 as I just described to you, when there's more layers at 23 that edge, it's going to present a softer surface.</p> <p>24 Q How would the padding material present a soft</p>
<p style="text-align: right;">179</p> <p>1 waistband? Strike that.</p> <p>2 Later in that same sentence it refers to 3 present a soft surface.</p> <p>4 A <b>Correct.</b></p> <p>5 Q And goes on to say despite the plastic material 6 at the edge of the body portion.</p> <p>7 A <b>Right.</b></p> <p>8 Q What does that mean?</p> <p>9 A <b>Let me continue to read that. With respect to the wearer, thereby to present a soft surface at the inside of the diaper despite the plastic material at the edge of the body portion.</b></p> <p>13 When you have this padding member, which is a 14 strip, it's going to present a soft surface. This is 15 the surface of the diaper.</p> <p>16 Q You're referring to the --</p> <p>17 A <b>Surface of the waistband.</b></p> <p>18 Q -- topside?</p> <p>19 A <b>But that doesn't mean it's only -- in my interpretation, it doesn't mean it's only limited to.</b></p> <p>21 It says it's presenting a soft surface. So if 22 it's in between layers, it can present a soft surface.</p> <p>23 Or if it's right here, even on the outer-most layer, 24 it's going to present a soft surface. So either way</p>	<p style="text-align: right;">181</p> <p>1 surface if the plastic edge is in front of the padding 2 material?</p> <p>3 A <b>Well, the plastic edge is actually behind the padding material. It's in back of this. If you want to say if it's laying open like this, it's underneath. If it's like this, it's actually behind it.</b></p> <p>7 Q Well, the edge portion that we discussed before 8 was the portion that is the top layer?</p> <p>9 A <b>This is the edge --</b></p> <p>10 Q <b>Correct.</b></p> <p>11 A <b>-- of the diaper. And I'll just continue to say that as you have more layers affixed to this edge, it's going to be -- there's going to be more cushioning there as opposed to just having this plastic edge by itself, which would be more sharp as in a single piece of paper.</b></p> <p>16 Q So if the plastic layer is the top layer, how 17 does the soft padding member present a soft surface?</p> <p>18 A <b>Well, it's not really the top layer when it's open. And it's actually in back when it's affixed to the baby. So you said when the plastic is a top layer? It's not really a top layer here.</b></p> <p>22 Q But in the application you directed my attention 23 to the plastic layer or plastic edge being the edge of 24 the --</p>

**H I G H L Y C O N F I D E N T I A L**

<p style="text-align: right;">182</p> <p>1     A   Oh, it's at the top of the waistband, yes. It's 2   at the top of this waistband portion. You know, if this 3   is the bottom of the waistband, this is the top of the 4   waistband.</p> <p>5     Q   Just for the record, this diaper isn't a Confab 6   diaper as far as I'm aware.</p> <p>7     A   No, I'm just using it to demonstrate waistband 8   is all and plastic edges.</p> <p>9     Q   Okay.</p> <p>10    MR. MANZO: Can I ask where we stand on time?</p> <p>11    THE VIDEOGRAPHER: We're at an hour-fifteen.</p> <p>12    MR. MANZO: And the total? Seems like we started --</p> <p>13    THE VIDEOGRAPHER: Three hours, plus an 14   hour-fifteen.</p> <p>15    MR. SMITH: Q   The soft padding member that you've 16   described in claim 10, is there any portion of the 17   written specification, claims 1 -- column 1 or 2, not 18   including the claims, that refer or describe your 19   interpretation of the soft padding member of claim 10?</p> <p>20    A   Again, it's similar to. I would have to -- like 21   I said, I don't memorize all of this, but I understand 22   it as I read it.</p> <p>23       So you want to know if claim 10 is really 24   within the contents of column 1 or 2 prior to the</p>	<p style="text-align: right;">184</p> <p>1     But what I'm referring to, like in claim 1, was 2   the soft padding member being distinct, which means 3   separate. And if I said this claim has to mean that 4   it's inside the two layers distinctly, I believe I may 5   have been incorrect on that.</p> <p>6       I believe what I had in my mind that it's a 7   separate strip that is distinct, and it doesn't limit 8   itself to saying exactly where it is. So I may have 9   been incorrect on that.</p> <p>10    Q   And are you talking about claim 10?</p> <p>11    A   I'm going back to claim 1, which was I believe 12   you asked me the same type of question for claim 1 a 13   while back.</p> <p>14    Q   Well, with respect to claim 10, is there 15   anything in the specification that supports your 16   interpretation that the soft padding member can be 17   between the top layer and the back layer?</p> <p>18    A   I'm not sure, but I don't think it has to be. 19    But I don't remember saying distinctly it has to be in 20   between the top and the back, but I don't remember that.</p> <p>21    Q   You went through the specification during one of 22   our breaks, and you said previously that there was 23   nothing in --</p> <p>24    A   Right.</p>
<p style="text-align: right;">183</p> <p>1   claims?</p> <p>2     Q   I was actually more specific than that. It's 3   with respect to just the one element of claim 10 that 4   refers to the soft padding member as you've interpreted 5   that soft padding member. Is there anything in the 6   written description of columns 1 and 2 that describes 7   that soft padding member as you've interpreted it?</p> <p>8     A   It describes the soft padding member other than 9   saying it's a soft padding member? You're saying it 10   describes the soft padding member, other than the fact 11   that it's just saying it's a soft padding member?</p> <p>12     Q   Well, you've indicated to me, and correct me if 13   I'm wrong, that the soft padding member could lie 14   between the top layer and the back layer --</p> <p>15     A   Correct.</p> <p>16     Q   -- is that correct?</p> <p>17     A   Correct.</p> <p>18     Q   Where in the specification does that description 19   of the padding being between the top layer and the back 20   layer occur?</p> <p>21     A   Well, as I believe I answered that earlier, I'm 22   not so sure if I answered that correctly now, now that I 23   hear it again. So I'm not so sure. I'd have to go back 24   and see how I answered that.</p>	<p style="text-align: right;">185</p> <p>1     Q   -- the specification that says --</p> <p>2     A   Right.</p> <p>3     Q   -- that the soft padding member can be between 4   the top layer and back layer.</p> <p>5     A   And I'll still claim that answer.</p> <p>6     Q   Just wanted to make sure.</p> <p>7     A   Uh-huh.</p> <p>8     Q   I'd now like to direct your attention to claim 9   15. And going down to the paragraph that starts "the 10   waistband, including a padding member." Do you see 11   that?</p> <p>12     A   Yes.</p> <p>13     Q   Does that call for the padding member to be in 14   contact with the wearer of the diaper?</p> <p>15     MR. MANZO: When you say "does that," you mean that 16   subparagraph or this claim?</p> <p>17     MR. SMITH: Q   Do you understand the question?</p> <p>18     A   You're saying does that paragraph itself mean 19   that it has to be in contact with the wearer?</p> <p>20     MR. MANZO: I object to the question as vague.</p> <p>21     MR. SMITH: Q   What do you think that paragraph 22   means?</p> <p>23     A   Well, it is -- your question is vague, but I 24   would say that -- if I could answer it as best as I can.</p>

**H I G H L Y   C O N F I D E N T I A L**

<p style="text-align: right;">186</p> <p>1 Q I'd appreciate that.</p> <p>2 A It is just describing I think where the padding 3 member is. It's at the edge portion of the exposed 4 surface of the waistband.</p> <p>5 It's at the edge portion of the exposed 6 surface. So I'm not sure I could limit it to saying 7 that it's -- that it is or it isn't in contact with the 8 wearer.</p> <p>9 Q Does it require that the padding be in contact 10 with the wearer?</p> <p>11 A Two paragraphs down it does. But that 12 particular paragraph doesn't specifically say contact 13 with the wearer. No, it doesn't say that.</p> <p>14 Q And you mention that the last paragraph of claim 15 requires that the soft padding member be in contact 16 with the skin of the wearer; is that correct?</p> <p>17 A Yes, it's for contact with the skin of the 18 individual. Does it require? I mean, I think it 19 explains it. That's what that claim is referring to, 20 contact with the skin, yes.</p> <p>21 QOkay. And that is disclosed in your figures 1 22 through 4; is that correct?</p> <p>23 A Well, yes.</p> <p>24 Q So those figures show that the soft padding</p>	<p style="text-align: right;">188</p> <p>1 in claim 1 of the patent; is that correct?</p> <p>2 A There is not a separate strip that is distinct 3 as you continue on in claim 1, no, I don't see -- unless 4 I'm missing it, but there doesn't appear to be a 5 distinct strip.</p> <p>6 Q According to claim 10, is there a soft padding 7 member in that diaper which has been marked as Exhibit 8 20?</p> <p>9 A Let me read claim 10. There is no strip of a 10 soft substance located at the waistband. There's no 11 strip. I'm referring to a strip, and there is none 12 located at the waistband in claim 10 as it says.</p> <p>13 Q So there's no soft padding member as described 14 in claim 10?</p> <p>15 A Well, in claim 10 it also says the first soft 16 padding member, including a strip. So you have to take 17 those words together, soft padding member, including a 18 strip. There doesn't appear to be one.</p> <p>19 QOkay. Looking at claim 15, does that diaper 20 have a padding member extending along an opposite edge 21 portion at an exposed surface of the waistband?</p> <p>22 A I'm sorry, where are you at claim 15? I was 23 down here.</p> <p>24 Q That's all right.</p>
<p style="text-align: right;">187</p> <p>1 member would be in contact with the skin of the wearer; 2 is that correct?</p> <p>3 A Yes, not limited to that, but containing.</p> <p>4 Q But that's what they show?</p> <p>5 A That particular aspect, yes.</p> <p>6 Q I'd like to show you a diaper. I'm sure you've 7 already seen too many today. And I'd like you to refer 8 to claim 1 of the '824 patent, which is Exhibit 1.</p> <p>9 A Uh-huh.</p> <p>10 MR. SMITH: And could I mark that diaper as Exhibit 11 20.</p> <p>12 (Document marked as requested.)</p> <p>13 MR. MANZO: Is this a Confab diaper?</p> <p>14 MR. SMITH: It is what it is.</p> <p>15 MR. MANZO: Does it have a production number?</p> <p>16 MR. SMITH: We'll put a sticker on it. Thank you.</p> <p>17 In looking at claim 1 of the '824 patent --</p> <p>18 MR. MANZO: Can I see it?</p> <p>19 MR. SMITH: Q Can you show me where on that diaper 20 the soft padding member is located?</p> <p>21 A There doesn't seem to be -- Let me be careful 22 before I answer. Just to make sure, there doesn't seem 23 to be any soft padding member at the waistband.</p> <p>24 Q So there's no soft padding member as described</p>	<p style="text-align: right;">189</p> <p>1 A I was somewhere else, I'm sorry.</p> <p>2 Q I'm down at the paragraph that starts the 3 "waistband, including."</p> <p>4 A The waistband, including a plastic material at 5 the border edges?</p> <p>6 Q I'm sorry, further down. It starts "the 7 waistband, including a padding member."</p> <p>8 A "Extending along the opposite edge portion at an 9 exposed surface of the waistband." I would say that 10 that particular aspect is not in this diaper.</p> <p>11 Q Okay. This is the last diaper you'll probably 12 see today.</p> <p>13 A Does that mean no more questions after this one?</p> <p>14 MR. SMITH: I'd like to mark this as Defendant's 15 Exhibit 21.</p> <p>16 (Document marked as requested.)</p> <p>17 MR. MANZO: Another mystery diaper.</p> <p>18 THE WITNESS: May I begin tearing? I might as well 19 get a head start. Go ahead.</p> <p>20 MR. SMITH: Q Referring to claim 1 of the '824 21 patent, which is marked as Defendant's Exhibit 1, can 22 you locate for me the soft padding member in the diaper 23 marked as Defendant's Exhibit 21?</p> <p>24 A Okay. Can I show you the soft padding member?</p>

**H I G H L Y   C O N F I D E N T I A L**

<p style="text-align: right;">190</p> <p>1 Let me see here. I'm getting good at this.      2 Oh, yes, I would say this is the soft padding      3 member right here. It's a strip and it is distinct.      4 Right there.      5 Q So the portion that you're referring to was      6 located between the top layer and the back layer; is      7 that correct?      8 A Correct, correct. yes, it's located in between.      9 Q And is that soft padding member adjacent to said      10 plastic layer edge?      11 A Yes, it's next to it.      12 Q You said it's next to it. Is that --      13 A Yes, it's right -- it's next to it.      14 Q You're saying that's adjacent to the plastic      15 edge?      16 A Yes, yes.      17 MR. MANZO: For about the tenth time, yes.      18 MR. SMITH: Q And does that soft padding member      19 present a soft surface along at least a portion of said      20 inside of the diaper waistband portion despite the      21 plastic edge?      22 A Yes.      23 Q And why does it do that?      24 A Well, as I explained earlier, and I'll be happy</p>	<p style="text-align: right;">192</p> <p>1 A Yes.      2 Q Despite the fact that there is a back sheet      3 between the soft padding member and the wearer of the      4 diaper?      5 A A back sheet between the soft padding member?      6 Q And the wearer of the diaper.      7 A A back sheet between?      8 Q Or I should say -- I'm sorry.      9 A Yes.      10 Q I'm confusing you.      11 A Yes, a back sheet between.      12 Q I apologize. I just wanted to make sure I was      13 correct that you're saying that this diaper presents a      14 soft surface despite the fact that the soft padding      15 member is between the top layer and the wearer of the      16 diaper?      17 A Absolutely.      18 MR. MANZO: I might be getting confused here, but I      19 wonder whether we've switched the top sheet and back      20 sheet between different interrogators?      21 MR. SMITH: Q I don't think so. I think my      22 previous question was a little confusing because I      23 switched it, but I think you understood --      24 A Yes.</p>
<p style="text-align: right;">191</p> <p>1 to repeat, the top layer -- excuse me, the top plastic      2 edge here is sharper when standing alone by itself, as      3 in a piece of paper. When you affix layers to it, it      4 becomes not as sharp.      5 Q And does it present a soft surface?      6 A Yes.      7 Q And how does it do that?      8 A When you add padding to something, it makes it      9 more comfortable. And by touch I can tell it has a soft      10 surface.      11 Q But you're touching the padding member.      12 A Even the layer that goes over the padding      13 member, when you first touch it, it appears to present a      14 soft surface.      15 Q So you're saying that the back sheet presents      16 the soft surface to the wearer; is that correct?      17 A I'm saying that this diaper, this waistband, is      18 presenting a soft surface.      19 Q And I'm asking how it does that?      20 A Because it provides padding, some extra      21 cushioning. Being as thin as it is, it's still a little      22 cushioning.      23 Q It's your testimony that the soft padding member      24 is presenting a soft surface?</p>	<p style="text-align: right;">193</p> <p>1 Q -- the follow-up question, right, where I      2 cleared it up?      3 A It's still presenting a soft surface whether      4 it's behind this first layer that I pulled apart.      5 Q And the first layer you pulled apart is the top      6 layer, correct?      7 A Yes.      8 Q Looking at claim 10, does that diaper marked      9 Defendant's Exhibit 21 have a first soft padding member      10 as described in claim 10?      11 A And where are you at, I'm sorry?      12 Q That's okay. It's the last paragraph of claim      13 10, starting on line 4 of column 4.      14 A Okay. The soft padding member -- are you      15 talking about the first -- did I hear you say first soft      16 padding member?      17 Q That's correct.      18 A Yes.      19 Q And why is that?      20 A Well, it is a soft padding member undeniably.      21 And if you -- well, it depends on where you're looking      22 at the diaper I suppose, but opened up you have your      23 back sheet, and then you have your first member, your      24 first padding member on top of that, and then you have a</p>

**H I G H L Y   C O N F I D E N T I A L**

<p style="text-align: right;">194</p> <p>1 <b>layer on top of that of a batting.</b>      2 Q And when you're --      3 A <b>Opened up padding member.</b>      4 Q You're talking about different layers. Could      5 you describe the actual layers you're talking about?      6 You can use the same words we've been using, top layer,      7 back layer, padding member.      8 A <b>This is a plastic, you know, back sheet, if you</b>      9 <b>want to call it that, layer number one. This padding</b>      10 <b>member at the waistband, this is the first padding</b>      11 <b>member.</b>      12 <b>This may be, if you want to call it, a layer or</b>      13 <b>a piece, but this is the first padding member on top of</b>      14 <b>the back sheet. And this is another layer of a top</b>      15 <b>sheet. This is actually a padding member here.</b>      16 Q And, again, according to claim 10, does this      17 diaper present a soft surface at said inside of the      18 diaper waistband despite the plastic material at the      19 edge of the body portion?      20 A <b>Yes. It's a soft surface inside, yes.</b>      21 Q And can you describe again why that's true or      22 why you believe it's true?      23 A <b>Are you referring to the edge again?</b>      24 Q I'm referring to the last portion of the last</p>	<p style="text-align: right;">196</p> <p>1 Q Okay. Going to claim 15, does this diaper have      2 a padding member extending along an opposite edge      3 portion at an exposed surface of the waistband?      4 A <b>And again you are where in 15? I'm sorry.</b>      5 Q That's all right. I'm starting with the      6 paragraph that says "the waistband, including a padding      7 member."      8 A <b>Extending along an opposite edge?</b>      9 Q Correct.      10 A <b>Correct.</b>      11 Q Do you see that paragraph?      12 A <b>Yes.</b>      13 Q And does the diaper marked as Defendant's      14 Exhibit 21 have the waistband, including a padding      15 member, extending along an opposite edge portion at an      16 exposed surface of the waistband?      17 A <b>Yes.</b>      18 Q And why is that?      19 A <b>Because the waistband has padding member. It</b>      20 <b>extends along the opposite edge portion at an exposed</b>      21 <b>surface of the waistband. I guess you can maybe call</b>      22 <b>this an exposed surface or this top surface of the</b>      23 <b>waistband.</b>      24 Q So you're calling the top edge to be the exposed</p>
<p style="text-align: right;">195</p> <p>1 paragraph of claim 10.      2 A <b>Despite the plastic material at the edge of the</b>      3 <b>body portion?</b>      4 Q I was asking you, does the diaper marked      5 Defendant's Exhibit 21 present a soft surface at said      6 inside of the diaper waistband despite the plastic      7 material at the edge of the body portion?      8 A <b>Yes.</b>      9 Q And why is that?      10 A <b>As I said earlier, again, it's adjacent to the</b>      11 <b>plastic edge.</b>      12 Q Which you're referring to as the back sheet?      13 A <b>Yes.</b>      14 Q Okay.      15 A <b>And the plastic edge being right here at the</b>      16 <b>top. And the more layers you affix to it, the less</b>      17 <b>sharp, I guess you could say, it is if you want to</b>      18 <b>describe it as that. So that's why it does present a</b>      19 <b>soft surface.</b>      20 Q And the diaper presents a soft surface even      21 though the soft padding member is between the top sheet      22 and the skin of the wearer of the diaper?      23 A <b>Yes, because it's still next to the plastic</b>      24 <b>layer edge.</b></p>	<p style="text-align: right;">197</p> <p>1 surface?      2 A <b>Yes.</b>      3 Q Okay. And does this diaper marked as      4 Defendant's Exhibit 21 have a soft surface for contact      5 with the skin of the individual at at least one of the      6 border edges?      7 A <b>Yes.</b>      8 Q Does it have a strip of material forming a soft      9 surface for contact with the skin of the individual at      10 at least one of the border edges?      11 A <b>Yes.</b>      12 Q And can you show me that?      13 A <b>Well, here's a border edge. The strip of</b>      14 <b>material is right there next to, or adjacent to, the</b>      15 <b>border edge.</b>      16 I'm sorry, where are you at?      17 Q That's okay. I'll direct your attention to the      18 last two paragraphs of claim 15. And they read, the      19 padding member, including at least one strip of material      20 formed from a soft substance, the at least one strip of      21 material forming a soft surface for contact with the      22 skin of the individual at at least one of the border      23 edges.      24 A <b>Correct.</b></p>

**H I G H L Y C O N F I D E N T I A L**

<p style="text-align: right;">198</p> <p>1 Q Does Defendant's Exhibit 21 have such a soft 2 surface?</p> <p>3 A This padding member is not in contact with the 4 skin of the individual.</p> <p>5 Q So it does not have --</p> <p>6 A Correct.</p> <p>7 Q -- that's soft surface?</p> <p>8 A I'm sorry, yes.</p> <p>9 MR. SMITH: That's okay.</p> <p>10 I thank you for being very patient with me. I 11 don't have any questions at this time, but I may have 12 additional questions in the future. Thank you.</p> <p>13 THE WITNESS: Thank you.</p> <p>14 MR. MANZO: I'll have some cross. Let's take a 15 five-minute recess.</p> <p>16 THE VIDEOGRAPHER: Off the record 4:48.</p> <p>17 (Recess was taken.)</p> <p>18 THE VIDEOGRAPHER: On the record 4:56.</p> <p>19 EXAMINATION 20 by Mr. Manzo:</p> <p>21 MR. MANZO: Q Mrs. Tracy, you're not an expert in 22 claim construction, are you?</p> <p>23 A No, I'm not.</p> <p>24 Q Did you -- I think you might have been asked a</p>	<p style="text-align: right;">200</p> <p>1 soft padding member?</p> <p>2 A Yes.</p> <p>3 Q Does claim 10 reflect such a strip or a soft 4 padding member?</p> <p>5 A Yes.</p> <p>6 Q Does claim 15 reflect such a padding member?</p> <p>7 A Yes.</p> <p>8 Q And in all cases does this strip deflect the 9 effects of the plastic edge?</p> <p>10 A Does it deflect?</p> <p>11 Q Yes. Does it reduce --</p> <p>12 A Yes.</p> <p>13 Q -- the adverse effects of the plastic edge of 14 the diaper?</p> <p>15 A Yes.</p> <p>16 Q Just a final couple of questions. Are you 17 fairly tired at this moment?</p> <p>18 A Very.</p> <p>19 Q Are you undergoing some upheavals in your 20 personal life right now, Mrs. Tracy?</p> <p>21 THE WITNESS: Yes.</p> <p>22 MR. SMITH: Objection. What's the relevance?</p> <p>23 MR. MANZO: I think it's relevant to her testimony 24 today. I'm done.</p>
<p style="text-align: right;">199</p> <p>1 question about claim 1 of your patent, and I thought you 2 said that claim 1 requires the soft padding member to be 3 sandwiched -- I will use that word -- sandwiched between 4 the layers of the diaper.</p> <p>5 Is that what you meant to say?</p> <p>6 A No, it is not.</p> <p>7 Q Is it your understanding that claim 1 can read 8 on or be applied to a diaper that has sandwiched 9 construction?</p> <p>10 MR. SMITH: Objection, leading.</p> <p>11 THE WITNESS: It can --</p> <p>12 MR. MANZO: Q Can it --</p> <p>13 A -- be applied to that, yes.</p> <p>14 Q Can it be applied to one that doesn't have 15 sandwiched construction?</p> <p>16 A Yes.</p> <p>17 Q Turning to your design patent application, which 18 is marked as Exhibit 3 --</p> <p>19 A Yes.</p> <p>20 Q -- does it show that you included a strip of a 21 substance between the layer of the diaper and the skin 22 of the baby?</p> <p>23 A Yes.</p> <p>24 Q Does claim 1 reflect such a strip in terms of a</p>	<p style="text-align: right;">201</p> <p>1 MR. BAUMGARTNER: I have nothing further.</p> <p>2 MR. SMITH: Nothing further at this time.</p> <p>3 MS. ADDISON: Nothing at this time.</p> <p>4 THE VIDEOGRAPHER: This concludes the deposition of 5 Rhonda Tracy. The time is 4:59. Off the record. End 6 of tape 3.</p> <p>7 (Discussion had off the record.)</p> <p>8 MR. BAUMGARTNER: Okay. On the record.</p> <p>9 We've all agreed that the court reporter will</p> <p>10 take the paper exhibits that were marked today, and that</p> <p>11 the people who brought the physical exhibits will take</p> <p>12 them away, hold them until the trial of this case and</p> <p>13 make them available upon reasonable request for</p> <p>14 inspection by any party. And each of us will read the</p> <p>15 deposition exhibits that we're taking with us today.</p> <p>16 For Kimberly-Clark, I will be taking with me</p> <p>17 Defendant's Exhibit 7A, 8, 10, 11, 12 and 13.</p> <p>18 MS. ADDISON: Drypers will take Exhibit 19.</p> <p>19 MR. SMITH: Confab Holding Corporation, Craig Smith,</p> <p>20 is going to take Defendant's Exhibits 20 and 21.</p> <p>21 MR. MANZO: And the plaintiff will take Exhibits 7</p> <p>22 and 9.</p> <p>23 MR. BAUMGARTNER: Thanks.</p> <p>24 MR. MANZO: Thank you, everybody.</p>

**H I G H L Y   C O N F I D E N T I A L**

<p style="text-align: right;">202</p> <p>1 STATE OF ILLINOIS ) 2 COUNTY OF COOK ) 3 4 The within and foregoing deposition of the 5 aforementioned witness was taken before NADINE J. WATTS, 6 CSR. RPR. and Notary Public, at the place, date and time 7 aforementioned. 8 There were present during the taking of the 9 deposition the previously named counsel. 10 The said witness was first duly sworn and was 11 then examined upon oral interrogatories; the questions 12 and answers were taken down in shorthand by the 13 undersigned, acting as stenographer and Notary Public; 14 and the within and foregoing is a true, accurate and 15 complete record of all of the questions asked of and 16 answers made by the aforementioned witness, at the time 17 and place hereinabove referred to. 18 The signature of the witness was not waived, 19 and the deposition was submitted, pursuant to 20 Rules 30 (e) and 32 (d) of the Rules of Civil Procedure 21 for the United States District Court, to the deponent 22 per copy of the attached letter. 23 The undersigned is not interested in the within 24 case, nor of kin or counsel to any of the parties.</p>	<p style="text-align: right;">2736</p> <p><b>IN THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION</b></p> <p>RHONDA TRACY, ) Plaintiff, ) vs- ) No. 99 C JEWEL FOOD STORES, INC., ) AMERICAN STORES COMPANY, ) et al., ) Defendants. )</p> <p>I, RHONDA TRACY, being first duly sworn, on oath say that I am the deponent in the aforesaid deposition taken on May 25, 2000; that I have read the foregoing transcript of my deposition, consisting of pages 1 through 204 inclusive, and affix my signature to same.</p> <hr/> <p style="text-align: center;"><b>RHONDA TRACY</b></p> <p>SUBSCRIBED AND SWORN TO before me this ___ day of</p> <p style="text-align: center;">A.D. 2000.</p> <hr/> <p style="text-align: center;">Notary Public</p>
<p style="text-align: right;">203</p> <p>1 Witness my official signature and seal as 2 Notary Public in and for Cook County Illinois on this 3 _____ day of _____, A.D. 2000. 4 5 6 7 8 9                   NADINE J. WATTS, CSR, RPR 10                 License No. 084-002736 11                 Notary Public 12                 230 West Monroe Street 13                 Suite 1500 14                 Chicago, Illinois 60606 15                 Phone: (312) 263-3524 16 17 18 19 20 21 22 23 24</p>	<p style="text-align: right;">203</p> <p>HARTNETT &amp; CATELLANI, LTD. COCHRAN, PUDLO &amp; KOZLOWSKI, LTD. 230 West Monroe Street - Suite 1500 Chicago, Illinois 60606 (312) 263-3524 (312) 236-8461 June 7, 2000</p> <p>Rhonda Tracy 233 Grandview Glen Ellyn, IL 60137 CASE: Tracy -v- Jewel CASE NO.: 99 C 2736 DEP OF: Rhonda Tracy DATE TAKEN: 5-25-00</p> <p>Dear Ms. Tracy:</p> <p>Your deposition testimony given on May 25, 2000 in the above captioned case has been transcribed and inasmuch as signature was not waived, this is to advise that the deposition will be available in our office for 30 days for reading and signing.</p> <p>If you choose to read and sign your deposition at our offices, please call the undersigned for an appointment. Our office hours are from 9:00 a.m. to 4:00 p.m. Monday through Friday.</p> <p>If you choose to make other arrangements for the reading and signing of your deposition, please advise us of the arrangements you have made in writing within 30 days from the date of this letter.</p> <p style="text-align: center;">Sincerely yours,</p> <hr/> <p style="text-align: center;">Marilyn Foley</p> <p>cc: Mr. Edward D. Manzo - Cook Alex McFarron Mr. William A. Baumgartner, Jr. - Sidney &amp; Austin Ms. Linda L. Addison - Fulbright (Houston) Mr. Craig R. Smith - Fish (Boston) n.j.w.                   Job No. 3-66927</p>

**H I G H L Y   C O N F I D E N T I A L**

CASE: Tracy -v- Jewel DATE TAKEN: 5-25-00

DEPONENT: Rhonda Tracy

PAGE LINE ERRATA SHEET

\_\_\_\_ CHANGE: \_\_\_\_\_

\_\_\_\_ REASON: \_\_\_\_\_

(signed) \_\_\_\_\_ DATE \_\_\_\_\_

Reporter: Nadine J. Watts

## HIGHLY CONFIDENTIAL

<b>A</b>	<b>adding</b> 91:21 147:12 <b>addison</b> 2:9 4:6 10:18 10:18 17:15 72:14 73:1,2,4 76:17 79:14 80:18 81:2 84:18,21 84:24 91:23 92:5,12 95:21 97:18 98:1,6 100:2,4 102:2,5 103:18,20 104:18 108:1,5 110:6,8 111:1 111:3 112:7 114:11 118:13,15,20 120:20 120:22 123:19,22 127:19 128:1 129:12 130:21,24 131:7,13 132:9,20 134:18 135:3,10,16,19 136:2 201:3,18 2737:22 <b>addition</b> 129:16 131:20 166:22 <b>additional</b> 26:22 38:8 50:18 59:14 90:22,23 91:7,14,18 105:4,5,19 105:20 106:4 138:19 198:12 <b>additionally</b> 129:9 <b>adjacent</b> 36:18 54:6,8 54:18,22,24 55:10,18 55:20,22 56:2,6,11,12 56:13,20 57:5,7,8,15 57:18,18 58:2,5,7,9 58:14 116:20,24 117:1,5 125:21 126:2 126:10,13,15 127:3 127:11,13 128:5,24 129:4,5,9 131:23 132:16,20,21,24 133:11,14,17,20 134:4 190:9,14 195:10 197:14 <b>accurately</b> 78:13 79:4 79:15 80:7 81:7 135:2 <b>acting</b> 202:13 <b>actual</b> 115:4 194:5 <b>actually</b> 27:15 41:10 92:5 96:4 102:20 134:15 137:15 138:1 140:21 143:8 145:19 146:23 147:4 148:9 155:5,15 156:2 161:11 166:3 181:3,6 181:19 183:2 194:15 <b>Adams</b> 2:5 <b>add</b> 31:7 46:19 48:9,23 70:23 71:11 82:11 87:17 150:16 151:1 151:17 180:15 191:8 <b>added</b> 11:15,17 12:22 13:4 15:16 16:16 31:8 82:9,13 83:3,6,15,22 83:23 91:7 105:7,9	<b>aforementioned</b> 202:5 202:7,16 <b>aforesaid</b> 2736:9 <b>after</b> 64:16 66:17 68:1 68:12,16 72:9 87:1 89:18 90:1 107:3 115:7 136:7 175:23 189:13 <b>afternoon</b> 73:2 136:24 <b>again</b> 17:8 28:8 32:1,16 33:5 41:24 48:9 51:21 52:13 55:11 56:22 57:16 59:22 65:8 67:19,21 70:2,5 103:12 105:3 107:23 117:8 119:14 129:21 133:22 139:3 147:23 150:4 154:20 155:14 156:10,14,16 157:13 158:10 161:12 169:1 170:14 171:8,21 174:16,20,24 175:14 176:11 178:4,18 182:20 183:23 194:16 194:21,23 195:10 196:4 <b>against</b> 26:23 38:8 50:18 73:6 <b>ago</b> 21:24 35:11 92:14 109:2 125:20 <b>agree</b> 55:12 65:24 66:2 66:4,5 83:12 131:8 <b>agreeable</b> 11:3 <b>agreed</b> 72:15 73:21 148:19 201:9 <b>ahead</b> 34:17 76:3 84:22 134:20 150:24 177:7 189:19 <b>al</b> 6:8 2736:6 <b>alex</b> 2:3 2737:21 <b>allowed</b> 85:12 <b>almost</b> 112:23 173:4 <b>alone</b> 191:2 <b>along</b> 15:9 26:5,12 27:2 27:8,19,23 28:7,8 37:1,7 38:10,22 39:14 39:15 40:16 50:4,10 50:21 51:5 52:15,20 52:24 53:4,8,12,24 58:23 59:6,12 60:9,12 116:4 119:7,20 120:9 121:2,16 124:3,11 126:1 127:2,10 173:11 175:7,24 177:16,21 188:20 189:8 190:19 196:2,8 196:15,20 <b>already</b> 82:1 91:10,19 105:12,14,20,21	<b>106:5 117:16 127:23</b> 129:20 131:21 137:10 187:7 <b>also-being-next-to</b> 129:23 <b>alternatives</b> 145:2 <b>always</b> 46:7,8 63:5 66:13 75:11,14 82:7 66:13 75:11,14 82:7 <b>ambiguity</b> 38:16 120:13 <b>amendment</b> 135:7 <b>AMERICAN</b> 1:7 2736:6 <b>among</b> 29:1 73:22 <b>analysis</b> 13:21 <b>and/or</b> 41:21 99:21 100:5 107:13 <b>angle</b> 112:17 <b>announced</b> 134:17 <b>another</b> 33:20 34:1 39:8 41:20 48:24 52:6 64:11 65:14 66:16 80:14 87:13 111:17 128:12 189:17 194:14 <b>answer</b> 14:13 17:15,16 18:16,24 35:14 58:3 62:11 76:1 79:3,9 82:13,15,23 83:19 117:7,10 120:20,22 127:22 128:21 129:24 151:14 154:2 158:10 164:22 169:9 173:5 175:19 176:8 177:8 177:22 178:8,21,22 185:5,24 187:22 <b>answered</b> 27:11 58:3 80:9 81:15 117:6 127:24 129:3 154:1 183:21,22,24 <b>answers</b> 143:20 202:12 202:16 <b>anticipated</b> 68:21 <b>anyone</b> 141:1 <b>anything</b> 17:1,9 62:1 74:12 81:12,18 82:11 84:4,12,14 108:10 112:24 113:5,6 135:22 139:9 144:20 183:5 184:15 <b>anywhere</b> 81:18 110:14 122:20 <b>apart</b> 7:16 21:2 24:1,15 30:24 34:14 48:13 57:4,14 123:18 126:8 126:12 193:4,5 <b>apologize</b> 81:2 108:11 117:2 137:10 155:21 173:1 192:12 <b>apparatus</b> 145:3	<b>Apparently</b> 149:23 <b>appear</b> 8:10 19:10 28:20 33:20 98:7 188:4,18 <b>appearance</b> 75:8 <b>appearances</b> 10:6 156:6 <b>appeared</b> 155:17 156:5 <b>appears</b> 17:19 27:10 32:14 33:15 35:20 48:19 50:23 63:11 90:17 92:8 104:16 151:16 155:3 158:7 159:17 191:13 <b>applicability</b> 65:4 <b>applicable</b> 146:15 <b>application</b> 8:5,6,11,24 9:7,16,23 10:2 11:9 12:9,14,19 13:18 14:17,19 15:1 16:11 17:2,10,19 18:7,17,19 18:24 19:4 20:12 39:23 40:3,5,9,12,13 41:3,16,22,24 42:6 68:3 71:23 77:18,21 78:9,11 80:6,7 81:12 81:19 86:22 87:6,7,20 88:1,21 90:10 92:24 95:4 96:3 100:9 103:16 106:22 109:14 109:21 118:22 121:21 121:21,22 122:11,14 122:21 124:7,8,9,13 124:14,16 125:7,9,12 125:14 127:5,7,13 128:11,14 130:16 134:9,17,23 135:6,9 139:16 146:5,21 147:3,5 149:2 152:10 153:22 181:22 199:17 <b>applications</b> 76:14 148:5 <b>applied</b> 74:16 99:9,14 123:17 146:1,6 199:8 199:13,14 <b>appointment</b> 2737:14 <b>appreciate</b> 19:1 135:3 186:1 <b>approached</b> 77:8 <b>appropriate</b> 52:7 64:23 65:20 <b>approximation</b> 138:11 <b>area</b> 12:10,15,19 17:3 22:18 27:7,15,17,21 27:21 29:21 30:3 31: 32:11 47:2,5 51:14 53:22 54:13,21 55:18 55:23 70:9,11 103:12 108:17 113:1 126:9
----------	---	--	--	---

## HIGHLY CONFIDENTIAL

144:9 149:19,24	181:22 185:8 197:17	52:8,12 56:8 57:13	better 38:16 41:21	brief 88:16
150:1,6 151:21 153:4	attorney 8:14 9:5 40:10	59:3 64:8 65:22 67:8	88:21 138:16 174:23	bring 118:2,9,9
170:17,18,19,20	40:21 76:11,16 87:11	71:16,21 72:3,13 74:6	between 33:12,17 35:4	bringing 46:14
171:1 172:15 176:7	87:11,18 91:5,6	80:23,23,24 81:1,1,11	35:6,17 36:17,19,20	brittle 43:1,2 44:19
areas 15:8 29:4,5 38:14	147:17 178:22	82:12,21 83:20 85:3	38:13 49:2 75:1,4,17	broad 64:24
69:23 74:10 84:3	attorneys 75:22	98:20 103:13 106:10	78:17 89:23 101:10	brodersen 3:8 10:15,15
91:14 105:8 145:17	attorney-client 76:2,3	107:9 116:22 134:16	102:23 115:1 118:7	brought 73:5 107:7
151:17 166:14,16	audiovisual 6:12	150:15 201:1,8,23	126:19,20 140:21	201:11
argumentative 57:10	austin 2:14 10:13	273:22	141:6 142:20 144:21	buy 29:16,20 108:5
151:13 178:17	273:22	bear 23:9 137:11	145:14,17,17,20,22	
around 13:24 79:22	available 201:13	bears 59:4	145:24 146:3,4,16	C
94:7,15 95:9 96:13,21	273:12	became 46:13	147:7,12,20 148:3,23	C 1:6 6:10 202:2 2736:4
98:3,10,15 101:9	average 8:1 13:10,13	become 45:9	148:24 152:11,13,16	2737:7
113:10,11,16 115:7	13:14,16 14:2 16:19	becomes 48:24 191:4	152:17,23 153:14,23	call 65:13 77:2 86:13
123:11 132:14 144:8	17:3,11	before 1:17 17:24 18:22	155:24 163:22 164:5	96:19 116:5 123:24
148:9 168:6	avoid 55:16	29:17 31:6 35:21	165:20 166:3 171:11	148:22 185:13 194:9
arrangements 2737:16	aware 146:14 148:2	60:23 67:9 71:23 73:3	171:24 172:8 173:11	194:12 196:21
2737:17	182:6	73:11 74:20 77:8,11	179:22 180:4 183:14	2737:14
arrows 94:11 107:14,17	away 142:12 201:12	78:7 80:20 87:1,2	183:19 184:17,20	called 6:17 52:3 60:19
107:22 109:18 149:19	A.D 1:23 203:3 2736:18	109:10 111:15 118:21	77:6 87:9 89:10 93:20	
152:7 155:10	a.m 1:22 6:4 2737:14	125:7 127:6 128:11	calling 76:9 120:16	
art 13:3 14:19,24		138:1 148:10,17	196:24	
110:20 124:15 135:12	B	154:13 164:17 181:7	calls 14:11 18:9 65:16	
arts 85:13	babies 62:10	187:22 202:5 2736:17	168:10	
artwork 85:13	baby 11:17 22:4 54:15	beforehand 68:10	came 20:9 32:18 46:19	
aside 37:20 80:4,18	62:2 64:23 65:21 67:7	beg 48:17	66:22 67:1 75:15	
132:21	69:24 81:22 82:8,14	began 73:4	76:20 106:19,24	
asked 74:9 80:9 81:11	83:3,7,22 99:9,14	begin 18:17 68:22 74:9	107:5 146:12 148:8,9	
87:19 127:24 152:22	101:5,22 109:7,9	77:7 78:5 113:2	172:4	
154:1 173:6 184:12	114:20 122:23 123:17	189:18	camera 95:15 103:6	
198:24 202:15	150:16 156:16 157:15	beginning 18:20	114:4,6	
asking 14:7 34:19 80:11	165:12,14 168:22	begins 90:4 91:12	capable 43:13 45:11	
80:13 84:16 115:6	181:20 199:22	behalf 2:7,13,18,23 3:4	82:18	
117:7 120:12 122:8	baby's 24:8 62:4 123:4	147:22	captioned 2737:11	
134:24 159:8 163:13	123:9,16 142:8,13	behind 24:4 102:15	careful 46:10 187:21	
163:18 174:15,17	144:16 156:3	177:18 181:3,6 193:4	case 6:6,10 60:17 65:10	
176:17 177:4,5	backside 100:12 101:7	being 24:8 27:16 30:20	67:24 71:6 73:5	
191:19 195:4	101:16	57:18,19 85:17,20	103:22 148:4 201:12	
aspect 187:5 189:10	back-most 101:17	91:5 97:7 99:8 105:22	202:24 2737:7,11,11	
aspects 140:17	bag 22:8,10,15,22 44:1	126:2,9,13 127:2,11	2738:1	
assembled 67:10 68:4,6	44:3,5,12,18,21 45:1	127:15 128:16 136:9	cases 200:8	
associate 11:5	45:5,11,15,18,21	138:14 139:16 140:17	cass 2:15 10:13,13	
associated 159:21	balloons 59:4	146:14 157:8 164:5	CATELLANI 2737:1	
assuming 115:19	band 95:7 165:11	165:14 166:3,20	cause 62:9	
attach 43:15 45:14	bank 93:20,21,22	167:19 171:11 175:6	caution 75:21	
attached 4:22,23 5:1,3	barrier 25:4 26:22 38:8	175:24 178:21 181:23	cc 2737:21	
5:4,6,7,9,15,17,18	50:18	183:19 184:2 191:21	center 108:14 131:1	
22:3 202:22	based 18:12 88:8	195:15 198:10 2736:8	certain 25:7 47:2,14	
attachment 108:10	basically 14:2 41:19	belief 13:14 31:22	104:19,21	
173:18	basis 93:6 120:15	believed 66:23 106:21	certainly 17:6,9 52:8	
attempt 140:11	bat 36:18 141:7 177:18	below 27:15,16,17	136:12 175:1,18	
attention 20:9 28:23	batting 21:3 24:3 36:20	57:22 103:24 112:24	cetera 135:12	
60:15 86:13 106:19	126:13 141:5,6 194:1	114:1,9 117:15	change 67:13,17 68:9	
107:1,7 123:24	baumgartner 2:15 4:5	beneath 130:19	2738:4,6,8,10,12,14	
141:18 144:1,23	6:21,22 10:8,9,22	beside 117:15	2738:16,18,20,22	
149:4,6 154:12	11:3,7 12:6 14:9,13	best 21:1 22:1 34:21	changed 69:5 78:16	
156:19 157:1 161:15	14:18 15:13,19 17:18	35:14,20,23 70:6 76:5	93:21	
162:8,22 164:4 165:6	18:11 23:10,14,22	87:4 129:2 138:7	characterization	
173:14 174:8 175:1	32:24 34:20 48:17,20	153:18 178:22 185:24	129:13	

## HIGHLY CONFIDENTIAL

<b>Chicago</b> 1:21 2:6,16 6:3 6:6 22:18,20 29:21 98:4 203:11 273:2 <b>child</b> 107:4 117:14 170:2 <b>children</b> 57:22 <b>choose</b> 76:2 273:7:13,16 <b>Cincinnati</b> 20:10 106:20 <b>circumference</b> 100:23 <b>circumstances</b> 106:24 <b>cite</b> 135:11 <b>City</b> 1:21 <b>Civil</b> 1:18 202:20 <b>claim</b> 17:18,20 18:7,11 19:3,3 20:12 60:21,23 61:2,4 79:20,21,21 80:1 106:22 111:7,23 119:2,4,13,14,16,17 119:24 120:12 121:12 125:24 126:24 157:1 157:4 159:2 162:23 163:11,15 164:2,9 165:16,22 167:17,23 167:23 168:5,16,16 168:19,19 169:23 170:10 173:14 174:9 174:14 175:2 177:10 180:2,9 182:16,19,23 183:3 184:1,3,10,11 184:12,14 185:5,8,16 186:14,19 187:8,17 188:1,3,6,9,12,14,15 188:19,22 189:20 193:8,10,12 194:16 195:1 196:1 197:18 198:22 199:1,2,7,24 200:3,6 <b>claimed</b> 170:10 <b>claiming</b> 161:9 <b>claims</b> 9:13,22 18:3 52:3 56:6 60:19 70:22 78:24 84:12,16,18,20 85:24 86:2 90:16 111:18 120:11 127:21 135:11 161:11 164:13 164:14,15,17 171:10 171:13 172:2 173:8 174:13 177:6,10 182:17,18 183:1 <b>clarify</b> 137:7 154:18 155:14 <b>Clark</b> 6:3 <b>classify</b> 116:11 <b>cleaner</b> 95:5 <b>clear</b> 37:19 95:13 109:11 126:23 146:2 174:21 <b>cleared</b> 193:2	<b>clearer</b> 148:1 <b>clearly</b> 15:5,23 20:20 31:8 41:11 108:21 130:15 <b>close</b> 15:18 33:15 36:2 <b>closed</b> 19:20 59:17 173:21 <b>closely</b> 97:24 <b>closer</b> 46:15 <b>closes</b> 59:10 <b>COCHRAN</b> 273:1 <b>coherent</b> 67:22 <b>college</b> 86:11 <b>color</b> 104:10 <b>colored</b> 17:12 24:18,21 53:21,23 <b>column</b> 111:7,21 115:8 116:18,20 117:19,21 124:1 125:19 157:2 160:23 161:3,20 162:4,10 164:15,15 164:24 171:9,9 172:5 173:8,8,15,16 182:17 182:24 193:13 <b>columns</b> 183:6 <b>combine</b> 153:8 <b>combining</b> 153:10 <b>come</b> 7:18 22:7 32:21 65:19 108:20 137:24 138:12 174:16 <b>comes</b> 51:14 95:23 96:13 103:21 127:14 <b>Comfies</b> 89:10,12,18 <b>comfort</b> 12:22 15:16,23 16:1,17 62:16 140:1 <b>comfortable</b> 15:21,24 62:17 63:20 70:23 71:2,7,10,13 84:10 117:17 191:9 <b>coming</b> 95:8 156:17 <b>commencing</b> 1:22 <b>common</b> 91:8 <b>commonly</b> 11:18 83:7,8 83:9,16,22 <b>communicating</b> 87:23 <b>companies</b> 10:6 29:1 139:14 <b>company</b> 1:7 20:10 106:20 273:6 <b>compare</b> 34:18 <b>complete</b> 65:7 202:15 <b>completely</b> 68:4,6 75:8 76:15 77:22 101:9 102:14,20 <b>completes</b> 172:19 <b>comprehensive</b> 73:23 <b>conceivable</b> 35:16 <b>conceive</b> 137:13 <b>concepts</b> 57:21 117:14	<b>concern</b> 41:20 108:13 122:7 <b>concerned</b> 38:17 78:4 <b>conclude</b> 82:10 136:10 <b>concludes</b> 72:1 135:14 201:4 <b>conclusion</b> 18:10 64:15 64:17 65:20 135:21 136:13 177:5 <b>conclusions</b> 120:16 <b>condensed</b> 169:6 <b>confab</b> 1:10 3:4 10:17 137:3 182:5 187:13 201:19 <b>confident</b> 136:7 <b>confidential</b> 4:10 10:24 11:1 71:20 72:1 134:15,16,22 135:14 <b>configuration</b> 116:13 161:16 <b>confusion</b> 109:15 155:21 174:22 <b>congregate</b> 110:14 <b>connected</b> 97:11 <b>connection</b> 9:6 36:8 <b>consider</b> 7:21,24 39:4 42:11,13,24 43:5 44:4 44:12,18,21 45:7 49:9 58:5 60:2 112:15 135:7 <b>considering</b> 104:15 <b>consistency</b> 68:9 <b>consisting</b> 273:6:11 <b>constantly</b> 146:14 <b>constraints</b> 73:20 136:3 136:5 <b>construction</b> 128:10 148:22 198:22 199:9 199:15 <b>consumed</b> 116:22 <b>contact</b> 24:7 28:13 39:19 51:18 118:8 119:11,22 120:5 121:8,11,23 122:12 122:15,22 123:4,8,15 125:10,13,16 139:6 140:18 148:8,9 163:6 163:8,16 167:9 175:15 177:12,14 185:14,19 186:7,9,12 186:15,17,20 187:1 197:4,9,21 198:3 <b>contained</b> 29:2 33:7 86:2 91:1 109:8 144:11 <b>containing</b> 187:3	<b>contending</b> 155:1 <b>content</b> 42:22 <b>contention</b> 150:15 <b>contents</b> 9:12 18:2 90:6 90:14 102:21 123:20 123:23 182:24 <b>context</b> 44:15 <b>continually</b> 146:13 <b>continuation</b> 135:5 <b>continue</b> 179:9 181:11 188:3 <b>continues</b> 19:20 128:24 132:17 133:16 175:23 <b>continuing</b> 72:21 135:5 136:19 <b>continuous</b> 39:5 <b>convenient</b> 72:16 <b>conventional</b> 172:10 <b>conventions</b> 110:12,16 110:16 <b>conversation</b> 41:10 86:21 87:1,4,13,14,18 88:15 89:6 <b>conversations</b> 75:23 76:12,14 87:15 104:23 <b>convey</b> 30:5 <b>cook</b> 1:21 2:3 203:2 273:21 <b>copied</b> 22:15 <b>copy</b> 22:17 72:9 95:5 108:21 111:14,20 159:22 162:9 202:22 <b>core</b> 54:7,11,19,22,24 55:1,4,10,19,21,22,24 56:2,17,21,22,23 57:1 58:11,15,18 <b>corner</b> 92:19 102:6 <b>corporation</b> 1:9,9,10 2:13,18,23 3:4 10:17 137:3 201:19 <b>Correction</b> 32:10 <b>correctly</b> 175:20 183:22 <b>correspond</b> 131:9 <b>cotton</b> 94:7 144:5,8 145:7 172:7 <b>counsel</b> 2:2 10:4 15:12 17:7 23:7 27:11 28:8 32:2 33:5 52:5 59:1 73:14 74:21,22 78:12 86:16 102:8 117:7 129:8,20 151:18 153:21 158:18 161:14 202:9,24 <b>counsel's</b> 129:13 <b>county</b> 1:21 202:2 203:2 <b>couple</b> 81:4 200:16	<b>course</b> 30:20 51:14 147:8 161:10 <b>court</b> 1:1 6:9,14 65:7 72:9 73:19 82:18 201:9 202:21 273:1 <b>courthouse</b> 73:17 <b>Courts</b> 1:19 <b>cover</b> 25:17 45:2 74:4 93:6 137:9 142:15 168:8 169:11 <b>covered</b> 18:6 19:3 74:5 101:13 128:15 137:10 161:20 <b>covering</b> 36:19 96:22 140:2,17 141:7 142:14 167:23 168:20 <b>covers</b> 84:5 96:4 128:18 165:10 168:15,21 169:23 170:1 <b>CPA</b> 135:6,9 <b>craig</b> 3:1 4:7 10:16 137:2 201:19 273:23 <b>created</b> 145:8 <b>cross</b> 198:14 <b>cross-hatching</b> 131:1 <b>cross-section</b> 97:6,7 103:8 131:17 149:10 149:11,14,16,21 150:3 151:11,23 152:19 <b>crotch</b> 157:9 172:15 173:21 <b>CSR</b> 1:17 202:6 203:8 <b>cuffs</b> 94:11 <b>CUMMINGS</b> 2:4 <b>cured</b> 139:20 <b>currently</b> 54:14 <b>curvature</b> 43:13 45:12 <b>cushion</b> 46:1 61:19,19 <b>cushioning</b> 31:9 61:16 62:16 139:23 140:5 144:10 181:13 191:21 191:22 <b>cut</b> 21:2 22:14 180:17
<b>D</b>				
<b>d</b> 2:4 4:8 202:20 273:21 <b>daddy</b> 101:24 <b>dangerous</b> 98:3 <b>date</b> 6:3 12:3 40:15 77:1,4,5,13,17,19,24 78:2,7 80:5 93:5 137:20 138:4 146:8 146:12,16,20 202:6 273:8,17 273:8,1,23 <b>dated</b> 142:4 <b>dates</b> 146:3 <b>day</b> 1:23 84:8 86:8				

## HIGHLY CONFIDENTIAL

142:4 146:13 203:3 2736:17	64:19 66:7 193:21 <b>depictions</b> 80:20 <b>deponent</b> 202:21 2736:9 2738:2	<b>details</b> 93:12 <b>develop</b> 140:19 <b>developments</b> 134:9 <b>devices</b> 173:18 <b>diapers</b> 8:2 15:11 20:11 22:10,23 23:1,6,15 29:16,20 32:2,21 33:18,21 35:17,24 45:2 83:15,17,22,23 94:20 97:18 106:21 107:4 108:6 138:14 139:23 146:13 148:13 148:20 151:4 <b>diaper's</b> 99:9 <b>dictionaries</b> 85:3 86:10 <b>dictionary</b> 15:15,17,22 31:6 61:18 70:22 71:14 84:13,14 85:9 85:11,18 86:6,9,10,12 <b>differ</b> 64:21 <b>difference</b> 13:21 33:11 35:15 75:4,6,17 115:1 118:7 <b>differences</b> 33:17 35:2 35:4,17 36:3 76:13 78:17 <b>different</b> 21:3 24:11,13 24:24 25:21 30:18 37:11,12,13,15,17,21 42:3 56:7 57:19 63:23 64:13 65:2,3,10,11,23 66:10 67:12,16 75:8 75:13 76:13 85:16,17 88:20 92:10 94:14,18 94:19,21,24 102:17 110:16 111:18 116:8 119:21,23 120:4,6 145:6 151:22 152:2 166:14,16 167:18 192:20 194:4 <b>differently</b> 25:5 <b>dimension</b> 62:21 <b>direct</b> 28:23 60:15 121:8,11 122:12 123:15 125:16 141:18 144:1,23 149:6 154:12 157:1 162:8 162:22 164:4 165:6 173:14 174:8 175:1 185:8 197:17 <b>directed</b> 15:11 153:11 159:5 170:9 181:22 <b>directly</b> 56:13 57:8 87:23 141:16 <b>disadvantage</b> 97:20 <b>disagree</b> 66:6,11 <b>disagreement</b> 18:19 40:15 74:22 75:1 77:12	118:16 134:10 135:21 146:23 147:11,14,19 148:1,6,12,16,18 <b>doing</b> 106:2 109:19 138:2 169:4 <b>DOMINICK'S</b> 1:8 <b>done</b> 25:2 200:24 <b>double-check</b> 159:17 <b>doubt</b> 21:18,23 31:13 31:16 49:21 <b>down</b> 29:11 63:3 81:7 81:15 90:2,4 91:12 96:5 102:6 115:8 116:9 117:19 149:12 164:24 173:15 178:5 185:9 186:11 188:23 189:2,6 202:12 <b>drawing</b> 16:13 41:21 96:1 102:23,24 104:15,22 132:19 155:11 <b>drawings</b> 14:7 17:22 131:9 <b>drawn</b> 94:10 102:19 <b>drypers</b> 1:9 2:13 10:19 73:5,6 111:12 118:23 128:5 201:18 <b>due</b> 122:6 <b>duly</b> 6:17 202:10 2736:8 <b>DuPage</b> 93:20 <b>during</b> 184:21 202:8 <b>duty</b> 72:3
<b>E</b>			
<b>e</b> 2:15 202:20 <b>each</b> 15:6 36:8 64:14 65:24 95:11 111:24 160:11,24 161:4 201:14 <b>earlier</b> 35:12 40:1 57:6 67:3 69:9,12 70:22 82:19,21 96:12 109:16 123:6 139:2 146:17,18 152:21 161:24 162:15,19 168:3 183:21 190:24 195:10 <b>easier</b> 133:2,3 <b>eastern</b> 1:2 6:9 2736:2 <b>edges</b> 28:14 39:20 51:19 161:18 162:3 177:13 182:8 189:5 197:6,10,23 <b>edward</b> 2:4 4:8 11:4 49:18 2737:21 <b>effect</b> 46:1 73:16 <b>effects</b> 200:9,13 <b>eight</b> 136:6,8			

## HIGHLY CONFIDENTIAL

<b>eighth-of-an-inch</b>	<b>everything</b> 148:16 169:7	<b>extend</b> 28:7,8 39:14,15 51:5 113:20 116:6,9 157:9	<b>feels</b> 21:15 44:11 67:15 <b>felt</b> 21:13 31:1,3,4 46:12 47:5 66:17 68:11 69:22,23,24 70:15,15 71:16	<b>first</b> 1:20 2:16 6:5,17 8:10,17,18,19 9:9 17:19 68:11 74:22 76:4,20 77:8 79:22 104:14 105:1 106:12 106:16 110:9 119:1 122:2 145:24 146:1,5 146:20 148:4 155:17 156:20 157:4 166:9 168:5 173:1 174:7,9 175:2 188:15 191:13 193:4,5,9,15,15,23,24 194:10,13 202:10 2736:8
<b>either</b> 42:11,14 78:5 82:5 111:10 140:14 176:10 179:24	<b>Evidently</b> 10:22	<b>extending</b> 188:20 189:8 196:2,8,15	<b>felt-tip</b> 11:23	<b>FirstStar</b> 93:22
<b>elastic</b> 45:9 46:14 67:4 67:4,14,18 69:9,14 70:15 128:22 138:22	<b>exactly</b> 32:20,22 33:24 34:3 101:23 102:1 164:18 184:8	<b>extends</b> 51:10 196:20	<b>few</b> 74:8 125:20 149:1	<b>first-time</b> 75:3
<b>elasticized</b> 53:18,23 59:22,24 60:3 67:6 139:3 140:3	<b>EXAMINATION</b> 4:4 6:20 72:24 136:22 198:19	<b>extent</b> 124:24	<b>fibers</b> 46:14 67:16	<b>fish</b> 3:1 137:2 2737:23
<b>elastics</b> 68:24	<b>examined</b> 6:18 202:11	<b>extra</b> 12:21 13:1,4,15 13:24 14:3 21:3,5 30:3,7 32:7 39:24 40:6,11,24 41:7,16	<b>field</b> 8:1	<b>Fisher</b> 10:16
<b>element</b> 16:9 183:3	<b>examiner</b> 28:18 29:17 30:10 31:12 32:5 33:3 33:8,14,19 34:13,23	46:19 53:15,16 59:16 70:1,21 71:1,7,9,12 90:19,21 91:1,2,3,9,9 104:3,5,6,6 105:3,11	<b>figs</b> 172:6	<b>five</b> 118:15
<b>Ellyn</b> 7:6 2737:6	35:10 36:1 72:8 87:10 135:4,6	105:13,14,19,19,22 106:1 107:6 108:17 108:22,24 109:5 111:14 124:9 127:7	<b>figure</b> 11:10,12,21 12:23 13:19,20,23 79:24 95:9 96:6,8,9 96:11,13,16 97:5,5,6	<b>five-hour</b> 6:22
<b>embodies</b> 35:24	<b>excluding</b> 164:13 173:8 174:13	128:14 137:17,18 139:22 140:1,5,8,16 150:21 151:10,19 153:7 180:15 191:20	97:9 98:8,12,19,22 100:9 102:23,24 103:15,17 104:1 109:13,21 116:2 123:1 124:22,24	<b>five-minute</b> 198:15
<b>embodiment</b> 84:1,6 130:14	<b>example</b> 111:11	<b>extremely</b> 177:23	130:17,19 131:2,15 131:24 133:2,4 149:9	<b>fix</b> 69:17
<b>end</b> 28:24 52:2 60:18 72:18 111:24 136:16 161:18 201:5	<b>except</b> 92:10 145:6	<b>extremes</b> 150:9	149:12,16,20,20,23 150:19,20 151:9,20	<b>flap</b> 53:18,23 59:23,24 60:2,3
<b>ends</b> 112:23 159:24	<b>excluding</b> 164:13 173:8 174:13	<b>exudates</b> 54:15	152:1,2,2,5,6,8,10 153:23 158:7,9,15	<b>flat</b> 161:16
<b>engineering</b> 110:22,24	<b>exclusive</b> 166:19	<b>eyeglass</b> 75:13	159:10,13,16 160:7	<b>flexible</b> 139:5,-
<b>englarged</b> 161:4	<b>excuse</b> 27:11 32:9 97:23 112:2 122:19 134:2 143:15 148:10 152:14 158:6 159:14 160:12	<b>F</b>	160:12,13,14,15,16 160:17 161:1,8,17,19	<b>flip</b> 107:8
<b>English</b> 56:6,8	172:8,16 176:22 191:1	<b>facilitate</b> 131:11	161:23 163:1,2,20,21	<b>fluff</b> 54:13
<b>enlarged</b> 160:11,24 161:1,18	<b>exhibits</b> 4:13 92:14 96:2 99:16 148:17 201:10,11,15,20,21	<b>facing</b> 142:8,12 144:15	<b>figures</b> 13:22 150:2,8	<b>foam</b> 33:23 34:2
<b>enough</b> 66:18,19 67:8 139:6	<b>expectation</b> 63:22 64:14	<b>fact</b> 24:23 40:7 95:3 183:10 192:2,14	150:11 158:2,22 159:6 160:9 162:10	<b>foams</b> 66:13
<b>enter</b> 135:4,7	<b>expedite</b> 118:24	<b>factors</b> 47:24 66:3 67:13	162:22 164:7 186:21 186:24	<b>fold</b> 43:10 115:3 133:17
<b>entertaining</b> 148:11	<b>experience</b> 46:6 62:9	<b>failed</b> 41:8	<b>file</b> 102:20,22 135:11 147:1,3,4	<b>folded</b> 130:5
<b>entire</b> 113:16 161:12	<b>expert</b> 13:7,9 18:10 37:14 120:17 198:21	<b>fair</b> 85:15	<b>final</b> 200:16	<b>folding</b> 129:6,16
<b>entirely</b> 119:14	<b>experts</b> 65:4	<b>fairly</b> 200:17	<b>finally</b> 104:24	<b>folding-over</b> 129:22
<b>entitled</b> 6:7 8:20 120:18	<b>explain</b> 15:4 51:8 62:20 119:23 125:23 129:2 129:21 139:3 180:7 180:11	<b>false</b> 19:18	<b>find</b> 15:15 78:8 85:6,8	<b>folds</b> 127:8 128:18,23
<b>entry</b> 135:8	<b>explained</b> 69:9 75:5,16 75:19 129:20 190:24	<b>familiar</b> 61:1 83:9	86:5 106:9 110:2 118:16 122:4 160:8	128:24 129:10 130:6
<b>envision</b> 63:6 68:19	<b>explaining</b> 41:12 128:12 175:21	<b>far</b> 36:5 57:14 182:6	164:21	130:8 132:18,21
<b>Epps</b> 18:18 29:2 40:21 41:4,6,13 74:21 77:9 77:12 87:7,17,22 89:21 90:5,18 93:1,19 102:14 104:14,22 143:7,16,17,18 146:23 147:17 150:4	<b>features</b> 42:3 79:8 80:12,14 90:16 167:18	<b>fashion</b> 15:7 177:22	<b>finer</b> 1:8	133:1,18
<b>ERRATA</b> 2738:3	<b>February</b> 28:18 29:8 29:17 34:7,10 35:9	<b>feature</b> 70:1 78:20,23 79:14,15,18 165:18	<b>fines</b> 19:19	<b>FOLEY</b> 2737:20
<b>establishing</b> 108:14	<b>explains</b> 186:19	<b>features</b> 42:3 79:8 80:12,14 90:16 167:18	<b>finger</b> 116:4,15 132:4	<b>followed</b> 102:7
<b>et</b> 6:8 135:12 2736:6	<b>explanation</b> 40:8 42:1,2	<b>Federal</b> 1:18	<b>fingers</b> 115:24	<b>following</b> 2:2 71:19
<b>evaluate</b> 20:22	<b>explicit</b> 174:17	<b>feel</b> 21:6,8 36:8 45:4	<b>finish</b> 47:8,14,18 48:7 65:6 79:11 84:23	74:9 134:21
<b>even</b> 61:16 73:13 76:6 79:9 113:24 136:4 137:23 138:7 146:22 151:9 179:23 191:12 195:20	<b>exposed</b> 28:7,9 39:14 39:15 51:5,9,10,12,14 186:3,5 188:21 189:9	48:13 65:12,14 67:8 67:10,17,24 68:12 81:7 162:5	<b>finished</b> 20:2,3 173:4	<b>follows</b> 6:19 9:11
<b>eventually</b> 78:6	<b>feeling</b> 64:16,20 69:1	<b>feeling</b> 64:16,20 69:1	<b>fire</b> 87:10,22	<b>follow-up</b> 193:1
<b>ever</b> 39:22 46:12 69:19 71:16 73:11 74:3,12 74:16 89:9,14 140:19	<b>expression</b> 85:18	69:19 70:14	<b>firm</b> 63:11	<b>food</b> 1:7 6:7 107:2 2736:5
<b>every</b> 169:2				<b>FOODS</b> 1:8
<b>everybody</b> 95:11 201:24				<b>force</b> 73:16
<b>everyone's</b> 136:2				<b>foregoing</b> 202:4,14 2736:11

## HIGHLY CONFIDENTIAL

found 21:5 76:4	64:11 77:1,17,22 90:6	32:18	high 27:12	imposed 172:7,7
foundation 14:11	90:13 108:11 117:3	grocery 155:19	highlight 11:20	impression 110:18
fourth 40:20	139:24 158:4 159:13	ground 74:4 137:9	highlighted 9:10,18	imprisonment 19:19
frame 148:7	175:17	group 84:17	11:24 12:10,15,20,24	improve 151:6
Franklin 3:2	given 63:23 71:22	guarantee 88:22	14:20 15:2 17:4	improvement 94:6
free 36:9 48:14 81:7	73:11,20 273:7:10	guess 15:8 44:1 60:2	103:12 124:22 150:12	improvements 46:9
Friday 273:7:15	gives 77:17	63:20 64:19 66:7	highlighter 11:19	inasmuch 273:11
friend 75:12	giving 46:15	75:10 89:14 90:10	171:18	INC 1:7,8,9 273:5
front 15:17 32:10 78:21	glad 117:11	123:3 128:17 195:17	highly 71:22	inch 27:16
99:21 100:5,10,14,16	glance 155:17	196:21	him 18:21,22 87:11	inch-and-a-half 25:8
100:17,18,19,20,22	glanced 156:20	<b>H</b>	147:2 148:9,11	incident 22:1
101:1,2,4,5,6,7,10,14	glasses 97:16 132:2	<b>H</b> 2:15 4:5	hip 168:13	include 169:2
101:16,19 107:14	Glen 7:6 273:7:6	<b>hand</b> 7:9 8:4 23:5 28:16	hold 100:8 116:9,12	included 78:21,22 92:9
113:17 114:18,22	go 34:17 54:5 76:3 80:5	31:24 34:7 42:8 43:23	130:21 132:7 133:3	150:5 199:20
120:23,24 168:1,3	84:22 88:7 92:5	48:11 52:12,18,23	201:12	including 9:12 18:3
181:1	106:12 110:15 111:19	53:3,7 54:17 55:8,8	<b>holding</b> 1:10 3:4 10:17	121:15 152:3 164:10
fulbright 2:9 10:19	134:19,20 135:19	56:19 58:13,20	25:18 59:4 112:17	171:9 182:18 185:10
273:22	138:1 144:11 150:24	<b>handed</b> 7:4	116:5,14 137:3	188:16,17 189:3,4,7
full 73:23	151:7 154:4,11 156:3	<b>handing</b> 8:13 19:7	201:19	196:6,14 197:19
fully 113:20	156:3,22 172:4,18	<b>hands</b> 35:8	<b>holds</b> 99:9	inclusive 273:12
function 61:10,13	177:7,21 183:23	<b>handwriting</b> 29:23,24	<b>hole</b> 53:22 69:23 70:9	incorporated 6:8 68:1
functional 75:6,7	189:19	30:2 32:14 92:17 93:6	70:11	incorrect 184:5,9
further 19:17 24:16	<b>goes</b> 27:12,13,13,15,15	103:24 104:1,5	<b>holes</b> 15:6 49:6,8 52:15	indeed 87:12
87:17 113:24 189:6	94:15 97:12 98:10,15	107:12,17,22 108:9	52:16,20,21 53:1,1,5	indicate 17:2 39:23
201:1,2	98:15 99:20 100:4,13	108:14 154:15 156:11	53:5,9,9,12,14,24	40:5 92:20 94:5
future 198:12	101:14,14 113:10,11	<b>handwritten</b> 94:2,14	54:3 58:23,24 59:6,7	indicated 17:11 40:11
<b>G</b>	113:16 132:14 137:15	<b>happen</b> 63:9 98:2	59:12,13 60:9,12,13	40:24 41:7,15 77:12
Gamble 20:10,15,22	142:5 153:17 158:8	<b>happy</b> 40:7 139:3	81:12 86:20 90:19	81:12 86:20 90:19
21:19 22:4,22 23:1,15	168:20 179:5 191:12	190:24	95:1 183:12	95:1 183:12
25:24 26:4,8,12,18,21	<b>going</b> 6:24 8:4 16:15	<b>hard</b> 15:23 43:6,7,8,9	<b>individual</b> 28:14 39:20	infant 25:18 109:23
27:1 28:2,6,12 66:22	23:5 31:24 34:7 36:5	44:22 48:23 62:1	51:18 119:12 120:5	113:9,11 114:21
68:23 106:19 107:5	42:8 43:23 44:2 52:5	63:10 74:4 81:23	122:17 125:13,16	115:19,19 121:8,24
108:5	52:12 55:11 64:21	82:11 109:11,12	176:22 177:12,15	122:13 125:10,11
garbage 43:24 44:3,5	67:3,14,17 68:18,20	122:4 132:12 146:11	186:18 197:5,9,22	infants 42:19
44:12,18,21 45:1,4,11	71:18 74:2,4 81:4	150:23 151:5 159:22	198:4	informally 73:13
45:15,18,21	87:12 88:22 90:2	<b>harder</b> 66:13 68:20	<b>Hope</b> 13:7 112:2 150:21	information 19:1
garment 115:4	91:12 92:1 94:24 95:4	<b>HARTNETT</b> 273:1	hour 52:5 118:14	infringement 20:11
gauze 144:5	95:7,9,13 96:7,20,23	<b>having</b> 6:17 47:14	hours 182:13 273:14	106:21
gauze-type 144:8	98:1 99:19,19 100:8	108:22 109:10,11	<b>hour-fifteen</b> 182:11,14	initial 140:11
gave 65:22 77:23 81:5	100:16,18 107:2,13	111:24 157:21 158:23	<b>House</b> 86:11	inner 113:5,6 116:11
82:12 83:19 102:17	109:13,20 111:11	159:1 160:5 161:6,18	<b>Houston</b> 2:11 273:22	132:14 172:8,9
107:3 117:1,10	115:6 116:18 117:19	162:17 164:12 181:14	<b>Huggies</b> 29:1,5,13,16	inner-most 95:8 126:9
127:23 137:22 145:5	120:10 131:16,20	<b>head</b> 118:6 189:19	29:20 30:9,12,21,22	126:12
gee 67:15	132:3 133:14 137:15	<b>hear</b> 158:10 183:23	31:11 32:4,13 33:7,12	inquire 77:7
general 14:9 15:13	137:18 146:24 155:19	193:15	33:20 34:6 35:12 38:4	inquiries 76:10
38:15 83:18,21	156:2 164:9,13,24	<b>hearing</b> 116:24 172:21	<b>Huh</b> 123:19	insisted 18:23
generally 61:1	165:14,17 167:17	<b>help</b> 106:15 111:10	<b>I</b>	inspection 201:14
gesturing 109:22	168:2 169:24 171:15	166:8	<b>idea</b> 30:5 46:19 57:13	instance 21:17
115:24	171:20 177:21 178:21	<b>helpful</b> 160:1	76:21	instead 86:23 88:4 89:5
gets 174:6	179:14,24 180:1,23	<b>helps</b> 121:5	<b>identical</b> 30:20 34:22	
getting 10:23 77:20,24	181:13,13 184:11	<b>her</b> 41:12 75:14 80:12	<b>identify</b> 6:15 10:10	
113:1 132:9 146:8	185:9 196:1 201:20	80:13,14 87:12,13,16	59:1	
168:14 173:2 177:23	<b>gone</b> 25:6 110:17	87:18,19,23 88:8,12	<b>IL</b> 273:6	
190:1 192:18	<b>good</b> 7:1 63:21 73:2	88:13 114:8 129:10	<b>illinois</b> 1:1,21 2:6,16	
Gilhooey 147:17	136:24 139:15 190:1	161:14 172:19 200:23	6:3,6,9 7:7 202:1	
girded 151:4	<b>Grandview</b> 273:5	<b>hereinabove</b> 202:17	203:2,11 273:6:1	
give 35:14 41:22 57:13	<b>grasping</b> 115:24 116:3	<b>herself</b> 6:15	273:2	
63:3,5,7,11 64:9,10	<b>great</b> 46:9 110:23	<b>Hi</b> 137:1	<b>imagine</b> 48:4 91:20	
	<b>green</b> 32:7,9,11,13,15		<b>implication</b> 150:17	
			<b>implied</b> 81:22 150:16	
			151:8	
			<b>implies</b> 91:3	
			<b>imply</b> 82:7 91:7,18,20	
			94:19 150:22	

## HIGHLY CONFIDENTIAL

<b>intend</b> 30:5 <b>intended</b> 90:24 100:12 103:10 141:9 <b>intention</b> 81:6 82:6,9 93:13 150:17,18 151:8,19 <b>intentional</b> 116:1 <b>interest</b> 75:10 <b>interested</b> 202:23 <b>interesting</b> 153:2 <b>internal</b> 180:4 <b>interpret</b> 85:13 88:13 169:15,15 177:6 <b>interpretation</b> 106:7 116:2 120:12 169:11 178:9 179:20 182:19 184:16 <b>interpreted</b> 168:7 177:20 183:4,7 <b>interpreting</b> 170:21 <b>interrogation</b> 131:11 <b>interrogatories</b> 6:18 202:11 <b>interrogators</b> 192:20 <b>interrupting</b> 10:5 <b>interwoven</b> 25:3 67:4 <b>intrigued</b> 75:11,14 <b>introduced</b> 73:3 <b>invading</b> 76:1 <b>invented</b> 20:24 21:21 31:15 49:22 61:7,11 74:12 75:12 77:20 78:13 <b>invention</b> 8:19 61:23 62:13 75:15 78:5 79:5 79:9 80:8,12,14,20 92:20,22 93:2,9,10,11 94:22 110:16 137:14 138:12 139:12,20 142:1 145:20 146:9 147:12,20 148:2 164:21,24 165:7 166:1,10 168:17 <b>inventions</b> 78:1 <b>inventor</b> 7:6,11,14 8:19 75:3 87:19 <b>inventors</b> 110:10 <b>inventor's</b> 120:13 <b>invite</b> 161:14 <b>invited</b> 110:15 <b>involves</b> 94:7 <b>ipissima</b> 174:15 <b>issue</b> 55:16 84:18 <b>issued</b> 7:13 <b>item</b> 160:19 161:7 <b>i.e</b> 90:7	2738:24 <b>January</b> 19:13 <b>jaworski</b> 2:9 10:19 <b>Jeana</b> 3:8 11:6 <b>Jeep</b> 63:9 <b>jewel</b> 1:7 6:7 22:16,18 107:2 2736:5 2737:7 2738:1 <b>Job</b> 2737:23 <b>John</b> 3:8 10:15 jr 2:15 4:5 2737:22 <b>jump</b> 115:6 <b>June</b> 2737:4	<b>kyle</b> 2:20 10:12  <b>L</b> L 2:9 4:6 2737:22 <b>label</b> 89:15,17 <b>labeled</b> 146:9 <b>lady</b> 95:12 <b>Lake</b> 2:20 <b>landing</b> 59:4 156:18 <b>language</b> 19:20 99:21 119:4 178:10 <b>large</b> 132:6 <b>last</b> 46:16,18 72:15 85:23 91:15,16 118:3 133:13 135:8 165:24 166:9 167:10 168:16 169:10,11 174:9 175:2 186:14 189:11 193:12 194:24,24 197:18 <b>late</b> 63:24 138:9 <b>later</b> 136:13 147:1 179:2 <b>law</b> 18:10 <b>lawsuit</b> 74:14 137:4 <b>lawyer</b> 41:21 <b>lay</b> 113:20 <b>layered</b> 123:3 <b>layers</b> 96:17,18,19 97:3 98:7 99:3,6 104:3,6,6 106:4 123:1,2 131:3 132:3,14 133:16 152:22 153:2 157:19 164:10 172:5 179:22 180:16,18,22 181:12 184:4 191:3 194:4,5 195:16 199:4 <b>laying</b> 181:5 <b>lays</b> 59:19 <b>leading</b> 199:10 <b>leakage</b> 26:23 38:8 50:18 <b>least</b> 7:24 10:6 26:5,12 28:14 37:1,7 39:20 50:4,10 51:19 119:7 119:20 120:9 121:2 121:16 124:4,11,17 124:19 125:4 126:1 127:2,10 151:1,3 157:18 164:9,10 177:12 190:19 197:5 197:10,19,20,22 <b>leather</b> 63:9 <b>leaving</b> 80:4,18 132:21 <b>left</b> 77:5 102:15 113:21 114:18 136:6 150:4 158:7,9 159:4 162:1 164:1 <b>known</b> 12:19 <b>Kojro</b> 3:7 6:1 <b>KOZLOWSKI</b> 2737:1	<b>left-most</b> 114:15 <b>leg</b> 15:6 29:4 38:14 52:15,15,20,20,24 53:1,4,5,8,9,12,14,22 53:24 54:3 58:23,24 59:6,6,10,12,13,23 60:9,12,13 69:23 70:9 70:11 84:2 94:7,11 144:9 149:19,24 150:6 151:17,21 <b>legal</b> 18:9 120:16,17 177:5 <b>legible</b> 93:7 <b>legs</b> 13:2 15:9 84:6 94:15 138:23 150:21 151:20 152:3 <b>leg-gathering</b> 149:17 <b>Lervick</b> 3:8 11:6 <b>less</b> 180:17 195:16 <b>let</b> 20:2 23:24 24:15 36:6 38:16 41:11 47:6 48:11 52:18,23 53:3,7 54:17 55:8,8,14 56:19 58:13,20 63:8 65:6,8 67:21 71:21 79:19 84:24 91:15,16 92:23 95:6 102:5 106:15 119:1,13 126:11 128:2 132:2 135:1 137:6 143:5 152:14 154:11 159:17 161:24 170:13 179:9 187:21 188:9 190:1 <b>letter</b> 28:17,21 29:17 30:10 31:12 32:4 33:3 33:8,14 34:13,23 35:9 41:8,18,18 86:17,17 87:2,5 90:11 202:22 2737:17 <b>let's</b> 10:1 27:6 42:17 54:5 64:8 92:5 97:14 106:1 118:15 120:23 130:21 141:6 147:24 169:3 174:21 176:11 198:14 <b>level</b> 110:19 <b>License</b> 203:9 <b>lie</b> 183:13 <b>life</b> 200:20 <b>light</b> 178:10 <b>like</b> 7:9 14:14 19:18 24:4 28:16,23 32:17 33:22 35:21 36:7 44:24 48:13,14 51:21 56:11 57:21 60:15 65:3 74:3,9 80:5 83:10 86:13 89:24 96:14,24 98:8 107:21 110:2,22 111:3 114:1
<b>J</b>	<b>J</b> 1:17 202:5 203:8	<b>left-hand</b> 159:11	

## HIGHLY CONFIDENTIAL

127:1,10 144:24 160:11,24 161:3 173:15 175:6,24 176:24 187:20 188:10 188:12 190:6,8 <b>logical</b> 135:21 136:9 <b>long</b> 21:24 35:11 88:15 109:2 143:5 146:24 147:4 <b>longer</b> 68:12,17 151:4 <b>look</b> 15:14 20:7 23:10 32:16 34:11 40:18,19 47:6 48:12 51:21 60:21 61:18 63:19 96:14 97:23 103:3 108:6 118:5 121:20 135:20 137:17 158:14 160:3 <b>looked</b> 17:24 86:9 107:15 118:3 133:6 156:9,20,20 <b>looking</b> 11:8 12:23 13:18 14:19,24 16:23 30:11 32:24 63:14 97:9 112:12 115:8 146:13 150:8 156:6 158:22 160:23 164:14 164:14 176:13 187:17 188:19 193:8,21 <b>looks</b> 96:24 98:8 160:20 162:9 <b>loop</b> 13:24 96:18 97:11 97:12,12,13 98:8,9,12 98:13,19,24 101:9 103:3,9,11 123:3,7,7 123:7 130:20,23 131:2,4 132:12,14 153:4,16,16,17 <b>looping</b> 96:21 123:11 <b>loops</b> 123:7 <b>lost</b> 78:3 <b>lot</b> 63:11 115:7 137:22 <b>LTD</b> 2:4 2737:1,1 <b>lunch</b> 72:20 74:20 <b>L.L.P</b> 2:9	48:2 65:7 72:7 89:23 106:18 109:4,15 126:17 133:3 147:24 151:6 154:6 155:23 177:9 178:9 185:6 187:22 192:12 201:13 2737:16 <b>makes</b> 49:7 153:9 191:8 <b>making</b> 62:17 76:10 90:10 139:17 <b>managed</b> 25:10 <b>manufactured</b> 34:10 68:14,15 89:15 <b>manufacturer</b> 140:7 <b>many</b> 82:24 92:2 113:13,14 114:11 187:7 <b>manzo</b> 2:3,4 4:8 10:4 10:20,23 11:4,4 12:5 14:6,10 15:11 18:9 23:9,12,19,21 32:21 34:17 48:16,18 52:5 56:5 57:10 59:1 64:2 65:16 66:24 72:12,17 75:21 76:1 79:6,11 80:9 84:16,20,22 92:8 98:3 100:1 104:16 120:10,21 123:18 127:17,24 129:8 131:6,8 134:14,20 135:1,4,11 147:18 148:4,8,24 151:13 154:1 158:10 159:5 161:14 172:18 174:6 174:15,17 177:4,21 178:17 180:9 182:10 182:12 185:15,20 187:13,15,18 189:17 190:17 192:18 198:14 198:20,21 199:12 200:23 201:21,24 2737:21 <b>March</b> 8:15 146:24 <b>margin</b> 15:6 <b>marginal</b> 92:11 <b>MARILYN</b> 2737:20 <b>mark</b> 92:5 159:19 187:10 189:14 <b>marked</b> 4:10 7:4,9 19:7 23:5 28:16 31:24 32:6 34:8,23 42:9 43:23 48:11 58:20 91:13 92:4,7 93:10 102:4 103:19 106:14 107:9 108:4 111:2 152:11 187:12 188:7 189:16 189:21,23 193:8 195:4 196:13 197:3 199:18 201:10	<b>marketplace</b> 146:14 <b>marks</b> 138:15 139:8 <b>Massachusetts</b> 3:2 <b>materiality</b> 120:16 <b>materials</b> 21:3 37:15 46:10 63:6 64:13 65:23 68:8 <b>matter</b> 140:15 <b>may</b> 1:23 4:2 6:3 12:5,6 14:15 16:21,21,24 17:5 18:14,16 24:1 27:11 34:14 49:18 53:13 64:17,22 65:3 66:3,4,5 68:12 72:22 98:5 120:20,22 122:1 134:8 136:5,7,20 137:24 145:7 151:17 152:16 153:5 154:5 157:9 160:1 165:4 166:13,23,24 171:14 172:15 173:18 174:1 175:19 176:17 177:18 178:1 179:19 180:1 181:2 182:1 183:1 184:1 185:1 186:1 187:1 188:1 189:1 190:1 191:1 192:1 193:1 194:1 195:1 196:1 197:1 198:1 199:1 200:1 201:1	118:12 156:8 199:5 <b>meeting</b> 163:22 180:4 <b>MEHLER</b> 2:4 <b>members</b> 27:4 52:14,19 52:24 53:4,8 58:23 59:5,12 150:12 <b>memorize</b> 182:21 <b>memorized</b> 161:13 <b>memory</b> 76:5 79:19 <b>mention</b> 41:8 72:7 186:14 <b>mentioned</b> 27:7 74:20 139:2 146:17,18 161:22,24 162:15,19 <b>merely</b> 93:13 108:21 <b>met</b> 110:9 <b>method</b> 144:9 145:3 <b>methods</b> 145:9 <b>MICHAEL</b> 2:10 <b>middle</b> 99:11 <b>might</b> 16:3,3 32:16 33:23 45:9,10 65:1 66:9,10,15 72:15 89:21 102:14 104:13 136:9 138:6,8 146:15 189:18 192:18 198:24 <b>Mike</b> 10:18 <b>mimicking</b> 156:21 <b>mind</b> 21:18,23 31:13 49:21 88:17 106:15 135:2 184:6 <b>mine</b> 32:17 84:1 104:2 107:21 156:15 <b>minute</b> 27:11 96:7 111:17 160:12 163:11 <b>minutes</b> 110:4 116:23 118:14,15 125:20 135:20 136:6,8 <b>mischaracterize</b> 127:20 <b>mischaracterizes</b> 127:17 180:9 <b>Miss</b> 41:9 73:2,8,19 78:8 84:7 85:22 86:13 86:21 91:17 92:12 95:10 99:16 102:5 103:20 107:1 110:2 111:4 112:8 118:20 121:6 123:24 134:8 136:24 <b>missed</b> 117:2 <b>missing</b> 188:4 <b>misstated</b> 81:2 <b>mistake</b> 81:6 <b>mistaken</b> 81:8 <b>misunderstanding</b> 109:16 <b>mixed</b> 68:8 <b>model</b> 90:7,14,16,24 104:15 141:1	<b>modification</b> 141:10 <b>modifications</b> 146:14 147:8 <b>moisture-proof</b> 154:24 <b>moment</b> 6:14 20:1 56:9 63:8 80:18 152:15 159:14 162:7 171:15 171:19 175:17 200:17 <b>mommy</b> 101:22 <b>Monday</b> 2737:15 <b>Monroe</b> 203:10 2737:2 <b>months</b> 147:1 <b>more</b> 15:7 16:5,17 24:1 30:19 34:2 35:12 46:9 46:13 47:6 49:18 62:17 67:21 68:21 83:13 90:11 93:7 95:19 97:24 101:15 116:3,4,7 132:3 135:11 136:8 138:23 138:24 153:2,3,9,11 155:8 168:15 172:5 180:22 181:12,13,15 183:2 189:13 191:9 195:16 <b>morning</b> 23:7,32:2 44:1 73:3 74:6 78:12 80:23 81:5,10 82:12 85:2 86:14,20 90:3 98:20 99:7 103:13 106:10 108:10 116:23 117:6 <b>most</b> 113:22 118:24 <b>mother</b> 75:12 <b>move</b> 74:10 130:22 <b>Moving</b> 157:18 <b>much</b> 84:5 89:8 118:13 135:16 136:5 <b>must</b> 134:14 <b>myself</b> 13:12 77:6 87:9 98:5 148:24 171:15 <b>mystery</b> 189:17
<b>M</b>				
<b>machine</b> 22:17 <b>made</b> 9:15 19:16,17,19 22:8 34:7 35:12 37:11 37:13,16,19 46:9 69:14 138:14 139:4 139:10 141:11 167:19 168:15 202:16 2737:17 <b>mail</b> 77:5 <b>mainly</b> 70:15 <b>make</b> 7:1 19:9 33:22 37:20,22 41:21 45:1	<b>meaning</b> 61:21 85:8,12 86:3,5 97:4 141:5 144:14 170:24 <b>means</b> 47:9,13 75:6 84:22 100:6 102:7 117:17 121:13 125:24 128:18 166:21 184:2 185:22 <b>meant</b> 41:18 55:24 88:13 90:12 91:11 94:19 106:8 109:3,22	<b>N</b>	<b>nadine</b> 1:17 202:5 203:8 2738:24 <b>name</b> 6:1 7:2 11:4 12:3 81:3 89:24 137:2 <b>named</b> 7:14 202:9 <b>National</b> 1:20 2:16 6:5 <b>nature</b> 83:1,2 <b>near</b> 9:9 27:14 113:1 180:14 <b>necessarily</b> 14:20 47:23 <b>need</b> 10:24 12:1 65:6 67:24 72:7 110:21 111:14 112:7 117:7 118:15 120:19 122:7 122:12,22 135:22 <b>needed</b> 105:11 140:1	

HIGHLY CONFIDENTIAL

<b>needs</b> 105:22 106:1	80:10 127:17,24	121:6 133:19	155:18,20,24 156:6	42:10 180:12,17,19
<b>Neenah</b> 2:21	151:13 177:4,7	<b>opposed</b> 40:2 181:14	157:10,13,15 165:3	181:15 191:3 201:10
<b>never</b> 18:17 29:2	178:17 180:9 199:10	<b>opposite</b> 188:20 189:8	165:11,13,15,18,23	<b>papercut</b> 180:13
102:21 110:17	200:22	196:2,8,15,20	166:12,22 167:13,18	<b>papers</b> 148:13,15
<b>Nevertheless</b> 74:8	<b>objections</b> 120:18	<b>oral</b> 6:18 202:11	168:4,6,21,23 169:24	<b>paragraph</b> 20:7,16
<b>new</b> 15:5 151:2	<b>observe</b> 71:21	<b>order</b> 11:2 15:21 18:6	170:5,6 173:22 174:1	21:20 23:16 28:24
<b>next</b> 11:24 56:3,10,11	<b>obviously</b> 142:4 149:24	19:2 57:14 63:1 67:11	40:20 90:2,4,4,18	
57:8,18 59:23 72:13	152:1	68:2 70:23 77:19	100:3 106:16 144:2	
72:14 90:17 91:23	<b>occasions</b> 85:4	87:22 88:11 110:22	144:23 145:2 157:4,5	
108:2,3 115:7 116:18	<b>occur</b> 40:14 183:20	<b>ordinary</b> 13:3 14:18,23	157:7,18 159:2 162:9	
117:15,15 126:6,16	<b>October</b> 20:9 22:23	84:12,14 110:19	164:10 166:1,9	
126:21 128:7,17,21	23:3 106:18	124:15	167:11,24 168:17	
129:9,18 130:4,6,7,10	<b>off</b> 22:14 52:9 72:18	<b>original</b> 8:19 121:22	173:17 174:9 175:2,5	
130:10,13 132:19	112:4,5 118:17	137:16 140:15 141:5	185:9,18,21 186:12	
134:7 147:2 190:11	135:19,23 136:16	141:7	186:14 189:2 193:12	
190:12,13 195:23	172:18,22 198:16	<b>originated</b> 145:24	195:1 196:6,11	
197:14	201:5,7	<b>ornamental</b> 8:20 9:2	<b>paragraphs</b> 52:3 60:19	
<b>none</b> 59:19 145:6	<b>offer</b> 131:6	17:21 40:2 75:8 80:12	91:12 186:11 197:18	
188:11	<b>office</b> 8:6,7 18:12 28:18	147:9 151:2	<b>parallel</b> 26:19 38:5	
<b>nonresponsive</b> 85:20	71:24 72:4,5 76:9,12	<b>other</b> 7:13,18 10:20	50:15	
<b>noon</b> 72:16 77:11	76:23 77:4,6 87:9	15:8 24:23 27:4 61:21	<b>paraphrase</b> 85:12	
<b>normal</b> 56:6,8 139:10	93:19 102:18 143:14	66:3 68:8 69:1,4,19	<b>paraphrasing</b> 85:11	
<b>North</b> 2:20 6:2	273:12,14	69:20 70:3,12 74:10	<b>pardon</b> 48:17 114:5	
<b>northern</b> 1:1 6:9	<b>offices</b> 73:14 273:14	74:12,17 78:1 84:12	<b>parent</b> 25:17,18 99:8,9	
273:6:1	<b>official</b> 203:1	84:14 85:8,13,13 88:7	<b>parlance</b> 56:7,8,	
<b>notarize</b> 93:23	<b>oh</b> 25:22 33:10 61:15	90:15 95:11 110:9	<b>part</b> 70:17 95:8 97:9	
<b>notarized</b> 76:22 93:24	83:5 100:20 112:2	111:19 136:12 145:9	98:22 99:2 109:6,9	
94:3	138:6 143:1 145:23	160:8 169:22 183:8	111:23 112:13,13	
<b>notary</b> 1:17 93:18,19	158:17 160:16 164:17	183:10 273:16	116:11 119:14 126:9	
93:20 202:6,13 203:2	182:1 190:2	<b>others</b> 66:14	128:16 129:22,23	
203:9 273:6:21	<b>Ohio</b> 20:10 106:20	<b>otherwise</b> 139:8 169:8	131:8 132:21 133:10	
<b>notation</b> 90:6,13 92:11	<b>old</b> 14:8,8 74:4 144:9	<b>out</b> 67:19 76:4 85:6	134:16 169:19,22	
<b>note</b> 72:7 109:4	<b>once</b> 21:5 47:6 48:22	87:8 88:17 89:7 93:7	171:1 174:6	
<b>noted</b> 91:14	52:13 59:10,17,19	94:15,20 99:20	<b>particular</b> 21:17 31:16	
<b>nothing</b> 17:14 81:15,24	67:3,5,19 68:8 105:3	100:24 101:14 107:13	39:1 46:21,23 63:14	
82:1,4 124:14 184:23	114:1,8 129:21	107:22 116:2 133:21	64:20 67:17 68:2	
201:1,2,3	148:19 155:1,16	138:18 150:4 156:15	70:17 75:10,15 78:23	
<b>noticing</b> 139:21 149:18	<b>ones</b> 69:4 131:10	164:7	89:16 96:13 97:11	
<b>nowhere</b> 123:14	<b>one's</b> 32:6 116:15	<b>outcome</b> 67:13 68:20	105:8 109:10 122:3	
<b>number</b> 23:9,13 48:16	<b>One-hour-thirty-one</b>	<b>outer</b> 25:17 45:1 95:23	122:14 125:12,14,18	
77:1,2 78:21 85:3	135:18	96:18 97:13 103:3,9	134:4 167:24 186:12	
91:23,24 93:5 102:6	<b>one-pat</b> 128:20	103:11 113:22 123:2	187:5 189:10	
108:12 134:17 135:8	<b>only</b> 12:1 21:13 27:2,8	141:7 142:14,15	<b>particularly</b> 47:4	
158:4 159:6,7,10,13	27:10,13,19,23 38:10	157:16 158:20 172:8	105:15 138:22 177:18	
159:21 187:15 194:9	38:12,22,24 50:21,23	172:9	<b>parties</b> 73:22 202:24	
<b>numbered</b> 29:10 30:11	50:23 58:3 82:14 83:3	<b>outer-most</b> 113:21,22	<b>partly</b> 74:2,3	
52:3 60:19	83:4,5,7,9,22 101:2	179:23	<b>party</b> 201:14	
<b>numbers</b> 131:10,11	128:24 140:23 149:11	<b>outlined</b> 98:20 169:7	<b>pass</b> 71:18 72:11 136:7	
<b>n.j.w</b> 273:23	149:14 151:7 165:1	<b>outside</b> 29:13 43:21	<b>passed</b> 77:3	
<hr/>	166:11,19,20 167:11	45:19,22 67:15 79:22	<b>patents</b> 7:13 74:13,14	
<b>O</b>	167:12,16 175:7,24	95:1,8,9,16,24 96:4	74:16,17,18 75:11	
<b>oath</b> 73:9 273:6:9	177:16 178:1,18	96:14,20,23 99:20	85:19	
<b>object</b> 14:10 80:17	179:19,20	100:5,6,19 109:17,20	<b>patient</b> 198:10	
85:20 120:10,15	<b>open</b> 134:6 155:16	123:8,18 127:15		
185:20	181:5,19	128:7 131:16,21	<b>pen</b> 57:20,23 58:2	
<b>objection</b> 14:6 18:9	<b>opened</b> 193:22 194:3	132:22,24 133:5,9,14		
56:5 57:10 65:16	<b>opening</b> 59:23	140:16 142:11,14	<b>pending</b> 6:8 20:12	
66:24 79:6,10,12 80:9	<b>openings</b> 101:10	144:11,18 152:5	71:23 106:22 134:9	
	<b>opinion</b> 63:24 110:18	153:7,18 154:19	134:17,23	
			<b>people</b> 10:10 56:11	
			65:4 92:2 201:11	

## HIGHLY CONFIDENTIAL

per 77:17 202:22	134:13 137:6,11	presupposes 66:24	21:15 53:12 54:2 60:5	quickly 27:12
perceived 139:12	144:7 149:6 155:8	pretty 84:5 89:7 139:4	60:13 62:16 70:18,19	quite 173:3
140:11	158:10 174:20	previous 127:22 192:22	144:10 191:20	quote 17:20 19:15 20:8
perforations 49:3,4	2737:14,16	previously 58:4 72:15	providing 108:24	28:24
perhaps 14:16,22 16:1	plus 182:13	91:22 105:8 117:6	public 1:17 93:18 202:6	quotes 19:20
16:23 83:11 146:22	point 10:24 33:11 35:2	131:18 133:21 139:24	202:13 203:2,9	<b>R</b>
period 146:4	36:3 52:7 72:7 76:6	142:6 150:7,15	2736:21	R 3:1 4:7 2737:23
person 12:23 13:3	130:10 132:4,17	184:22 202:9	publisher 86:11	Raise 97:16
14:18,23 16:19 17:2	133:10,12,15 134:14	primarily 151:16	PUDLO 2737:1	Random 86:11
63:13,14 65:1,14	135:21 145:12,13,19	printed 103:24	pulled 193:4,5	rather 88:16 132:4
personal 200:20	159:12,24 164:7	printing 107:20	pulp 172:7	reach 64:15,17
pertaining 1:19	pointed 133:21	prior 85:13 87:5 135:12	punishable 19:19	read 12:18 14:14 17:5
Petition 8:14 9:4 19:9	pointing 96:12 103:2	137:23 148:9 182:24	purpose 140:5	17:16,17 18:13 23:20
106:18 154:6	114:7 149:19,23,24	private 89:15	purposes 136:10	30:2 60:23 64:2,4
phon 147:18	151:21 160:2	privilege 76:2,3	pursuant 1:18 11:1	85:23 91:15,16 92:23
Phone 203:11	polyurethane 66:13	probably 10:23 79:11	202:19	112:7 119:13 144:4,6
photocopy 22:7 29:13	poly-foam 66:15	101:15 116:23 133:8	pursue 77:19	158:11 161:12 165:9
phrase 41:17 76:18	poor 65:7	148:6 189:11	put 42:20 62:1 67:9	170:13 172:15 179:9
91:18	popped 118:6	problem 39:22 40:4	68:12 89:18 90:1	182:22 188:9 197:18
physical 201:11	portions 61:22 72:8	139:13,20 140:12	97:19 106:2 114:19	199:7 201:14 2736:10
physically 24:24 37:23	124:4,11,18,21 125:2	Procedure 1:18 202:20	116:15 138:4 140:12	2737:13
38:1 49:12,15,17	126:2 127:2,11 150:9	Proceed 11:6 180:10	153:7 178:20 187:16	reading 12:9,14 124:16
pick 132:12	151:10,11 153:6	Proctor 20:9,15,22	putting 37:19 94:7	171:21 175:12
picking 107:4 162:7	161:18	21:19 22:4,22 23:1,15	145:20 171:23	2737:12,16
picture 16:23 22:4,7	pose 6:23	25:24 26:3,8,11,18,21	P.C 3:1	reads 9:11 119:24
30:10 57:18 107:24	position 79:2 112:18	27:1 28:2,6,12 66:21	p.m 2737:15	120:4 160:22 167:11
109:11 155:14,15	116:13	68:23 106:19 107:5	P.O 2:21	173:21
pictures 82:4	possible 40:16 43:15,17	108:5	<b>Q</b>	realize 42:1 90:4 92:1
piece 13:24 16:13 24:4	45:14 66:5 77:13,24	produced 23:7 32:2	qualifying 120:17	realized 143:15
24:13 25:3,8,21 32:7	possibly 66:20 68:9	102:7 134:10	quarter-of-an-inch	really 34:3 37:14 56:12
32:9,10,13 37:12,13	power 8:14 9:5 87:11	product 46:21,23 58:14	56:24 57:4 62:22	57:7,18 63:10 67:6
42:8,10,13,21,24 43:5	87:18	58:17 62:6	question 12:12 14:6,8,9	77:21 78:2 82:6 84:24
43:10,12 48:22,24	practicing 78:5	production 23:9,12	14:10,14 15:11 17:8	85:11 88:12 93:12
67:14,17 115:3	preferred 150:5	102:8 103:21 187:15	program 76:5,7,10,15	96:19 104:13 109:4
140:12 180:12 181:15	prepare 143:12	76:18,24 77:7,16	37:19 38:15 55:14	127:19 130:2 139:10
191:3 194:13	prepared 143:18	prompt 72:4	59:5 61:13 62:12 64:2	140:8 146:2 148:10
pieces 25:1	present 2:1 3:7 6:5 26:4	proper 108:12	64:24 65:6 67:19 79:6	152:2 177:4 181:18
pink 11:19 14:21 15:2	26:12 28:3 36:24 37:6	proposition 83:18,21	80:13,15,17 81:10	181:21 182:23
17:4,13 98:20 103:12	39:2,10 48:4,6 50:3	protect 89:24 144:12	85:22 91:17 112:7	reason 69:8 88:4,6,19
124:22 150:12	50:10 51:2 91:3,10,22	protection 89:9 165:1	116:8 119:17 122:1,5	105:13,16 106:4
place 87:5 137:20	121:5 124:12 141:1	166:10,18	122:20 129:3 153:11	122:7 139:16 2738:5
149:11 167:12 202:6	165:3 166:12,22	protective 11:2	153:22 159:5 164:22	2738:7,9,11,13,15,17
202:17	167:13 169:23 170:4	prototype 140:19,23	168:14,19 170:9	2738:19,21
places 81:4 99:18	170:6 175:9 176:2	protruding 115:20	171:21,22 173:5	reasonable 201:13
placing 142:19 144:20	178:3 179:3,10,14,22	provide 15:10,16 16:1	174:19 176:8 184:12	reasons 41:14 65:3
145:14,16,17 147:20	179:24 180:20,23,24	21:10 25:3 26:22 31:7	185:17,20,23 192:22	88:12
148:2 173:10	181:17 190:19 191:5	31:9 38:7 42:1,14,16	193:1 199:1	recall 15:17 18:3 30:17
plain 137:18	191:13 194:17 195:5	42:17,21 44:13,15	questionable 14:16	33:13 34:21 40:4 69:1
plaintiff 1:5 2:7 11:5	195:18 202:8	45:23 46:1 47:19 48:2	questioned 143:7,10	69:19 89:2,6 93:12
201:21 273:3	presented 148:13	48:3,5,7 50:18 52:15	questioner 72:13,14	116:24 154:5
Plaza 1:20 2:16 6:6	presenting 117:20,22	52:20 53:1,5,9 58:24	questioning 10:5 74:20	receive 72:9
please 6:14 7:2 11:10	118:1,7,10 119:2,5,10	59:6,13,15 61:15	102:16 136:10	recently 118:5
17:7,16 36:8 48:13	119:18 120:3,8 121:2	62:14,19 63:1,6 140:5	questions 6:23 36:6	recess 52:10 72:16,20
64:3 76:19 86:14	121:7,16 179:21	180:5	74:5,8 82:23,24 85:2	77:11 118:18 135:24
87:19 95:17 100:8	191:18,24 193:3	provided 15:2,3 40:8	111:4 118:24 122:8	136:18 172:23 198:15
106:13 107:8 110:2	192:10 193:1	139:5,22 143:20	137:5 143:19 149:1	198:17
117:4,12 118:21	194:15 195:20	165:1 166:10,18	189:13 198:11,12	recites 125:24
119:14 120:6 121:20	press 63:3	provides 15:19 16:3	200:16 202:11,15	recognize 102:11,13
124:1 125:23 130:22	pressured 162:5			

## HIGHLY CONFIDENTIAL

<p>141:21 142:24  <b>recollection</b> 21:1 22:2      33:1 35:20 70:6 138:7  <b>record</b> 10:4 17:17      23:20 52:9,11 59:2      64:4 65:7 67:22 72:18      72:23 104:16 112:4,5      112:6 118:17,19      126:23 135:19,23      136:1,16,21 158:11      172:18,22,24 182:5      198:16,18 201:5,7,8      202:15  <b>recording</b> 6:12  <b>red</b> 138:15 139:8  <b>reduce</b> 200:11  <b>Reed</b> 41:10 86:18,21  <b>refer</b> 10:1 36:7 85:11      85:17 90:21 92:22      142:11 178:14,23      182:18 187:7  <b>reference</b> 6:6 9:16      40:21 41:3 89:12,19      117:9,11 160:8      161:23 173:7 174:12  <b>referenced</b> 86:9 161:7  <b>referred</b> 20:16 21:19      23:2,16 30:9 31:12      32:4 33:3,8,13 34:12      34:22 85:3 96:2 97:7      126:24 127:1 142:7      174:1 202:17  <b>referring</b> 27:16 30:21      33:16 35:6 53:18 64:6      65:5 69:5 76:17 80:1      82:15 83:23 92:12,15      98:11,18 101:20      103:2,12 107:23      108:21 113:21 117:13      122:2 126:8 131:1      134:11 148:20,21      152:24 154:19,22      156:16 158:18 159:10      160:19,22 162:10      163:13 165:13 167:2      167:8 168:16 171:6      174:2 175:13 176:17      179:16 184:1 186:19      188:11 189:20 190:5      194:23,24 195:12  <b>refers</b> 92:24 104:7      105:3 144:18 157:8      157:13,21 158:4,23      160:5 161:6 162:13      164:5 170:10,11      171:10 173:10 174:13      179:2 183:4  <b>reflect</b> 96:1 129:11      199:24 200:3,6   </p>	<p><b>reflected</b> 80:19 124:6      125:9 127:5 131:17      163:2  <b>reflects</b> 125:1  <b>refresh</b> 79:19 143:5      171:15  <b>regard</b> 81:11 82:19      119:1  <b>regards</b> 128:4  <b>region</b> 11:13,21 13:5,15      14:4,20 15:1 17:12      36:13 38:19 39:2,4,4      39:7 43:16 45:15,23      47:2 49:3 55:9,11,12      68:24 69:21  <b>register</b> 120:19  <b>registered</b> 89:22,24      177:7  <b>regular</b> 44:2  <b>rejected</b> 87:6  <b>relate</b> 122:4  <b>related</b> 74:14,17  <b>release</b> 87:11,17  <b>relevance</b> 120:15      200:22  <b>relevant</b> 200:23  <b>rely</b> 77:21  <b>remaining</b> 118:24  <b>remember</b> 21:24 30:18      32:23 76:9 82:14,22      117:10 154:8 184:19      184:20  <b>repeat</b> 12:12 68:18 74:5      81:4 151:14 174:20      191:1  <b>repetitious</b> 90:3  <b>rephrase</b> 152:17  <b>replow</b> 74:4  <b>report</b> 169:3  <b>reporter</b> 6:14 65:7      72:10 82:18 129:11      201:9 2738:24  <b>represent</b> 11:4 34:5      78:13 79:4 80:7 102:5      103:1,20 105:2 137:3      146:19  <b>representation</b> 34:9      152:6  <b>represented</b> 10:7,21      79:16  <b>representing</b> 10:14,17      10:19 73:4 118:11,12      148:11  <b>represents</b> 78:14 79:8      79:15 154:24 155:5      155:13,15  <b>request</b> 6:13 201:13  <b>requested</b> 92:4,7 102:4      103:19 108:4 111:2   </p>	<p>187:12 189:16  <b>requests</b> 102:9  <b>require</b> 186:9,18  <b>requires</b> 72:4 186:15      199:2  <b>requiring</b> 135:6  <b>reread</b> 18:14 100:11  <b>resembles</b> 34:12  <b>resiliency</b> 63:2  <b>respect</b> 38:21 122:6      157:10 168:2 169:22      179:2 184:12 194:6      2736:13  <b>sample</b> 32:3  <b>sandpaper</b> 42:8,10,13      42:20,21,24 43:5,10      43:13,16,20  <b>sandwich</b> 148:22  <b>sandwiched</b> 199:3,3,8      199:15  <b>saves</b> 151:3  <b>saw</b> 13:4,14 33:2      102:21 108:6  <b>saying</b> 16:16 48:2 55:11      57:16 68:5 73:16      88:20 95:12 101:4,13      105:6,18 120:5 129:3      155:4,6,13,15,20      158:12 159:16 160:15      160:16,17 166:19      167:10 171:3 177:16      177:18,19 183:9,9,11      184:8,19 185:18      186:6 190:14 191:15      191:17 192:13  <b>says</b> 17:20 30:2 32:13      85:14 88:9 100:4      104:3,5 107:12      108:17 111:23,24      119:4,15 120:8      121:13 124:3,10      127:1 145:2 154:19      161:1,15 165:4      169:14,14,23 170:4      170:15,18 175:19      176:5,13 177:3,14,16      178:4,10 179:21      180:2 185:1 188:12      188:15 196:6  <b>school</b> 169:4  <b>scientist</b> 17:12 65:12  <b>scientists</b> 65:10 66:21      67:1  <b>scope</b> 95:23 136:4,5  <b>rubber</b> 151:5  <b>Rule</b> 19:9  <b>Rules</b> 1:18 202:20,20  <b>run</b> 116:4  <b>Russ</b> 10:13  <b>RUSSELL</b> 2:15   </p>	<p><b>S</b>  <b>S</b> 2:10  <b>sale</b> 23:2  <b>same</b> 33:1,6 37:21 58:3      63:22 64:15,17 65:19   </p>	<p><b>sections</b> 160:11,24      161:4 162:13  <b>see</b> 8:21,24 9:13 17:22      19:20 20:12,23 21:3      21:13 27:12 29:5      34:16 38:16 41:1 49:6      49:18 57:16 61:5      91:15,16 93:4 95:6,23      97:10 99:21 112:14      112:23 113:3 114:4,6      116:10 130:15 132:3      135:21 138:14 145:2      147:24 154:23 157:5      157:7,19,24 160:14      160:14,21 161:24      162:13 164:17 173:17      173:20 174:10,21      175:3,5 176:14      183:24 185:10 187:18      188:3 189:12 190:1      196:11  <b>seeing</b> 35:21  <b>seek</b> 89:9  <b>seem</b> 54:9 160:2 187:21      187:22  <b>seemed</b> 33:22 139:24  <b>seems</b> 15:7 32:6 49:14      95:6 133:2 139:14      182:12  <b>seen</b> 77:3 187:7  <b>sees</b> 14:3 16:20  <b>send</b> 72:8 104:24  <b>sensation</b> 16:7 63:17      64:20 65:1,2,11  <b>sense</b> 63:2 77:23 178:9  <b>sent</b> 29:17 76:22 93:3      102:14,18  <b>sentence</b> 8:18 90:17      165:7,9 166:1,9 167:1      167:7,19 168:7,17      169:10,11,22 170:1      170:10 173:20 179:2  <b>separate</b> 20:20 25:10      34:1 35:13,21 59:9,15      61:19,21 62:15 90:18      121:14 140:9 184:3,7      188:2  <b>September</b> 76:20 110:8      137:21 138:3 142:5  <b>serial</b> 71:24 77:1      134:17 135:8  <b>series</b> 52:3 60:19 82:23  <b>serves</b> 76:5  <b>several</b> 10:10 33:22      110:15 116:23,23  <b>shaped</b> 157:8  <b>share</b> 73:21 92:2  <b>shared</b> 66:23 89:21  <b>sharp</b> 180:12,15,16   </p>
--	---	--	--	--

## HIGHLY CONFIDENTIAL

181:15 191:4 195:17 <b>sharper</b> 191:2 <b>sheet</b> 24:5,11,14,18 25:11,14,21 32:15,18 37:11,16,21,23 38:2 49:2,2,13,17,20 99:8 99:13 101:20,20 126:19,19,21 132:23 142:15,20,20 144:18 144:21,21 145:14,15 145:17,18,21,21 147:13,13,21,21 148:3,3,23,23 152:12 152:12,14,14,17,19 153:23,24 154:20,20 156:4 163:22 164:6,6 165:15,21,21 166:3,4 167:5,20,21,22 168:24 172:8,9,9,9 173:11,11 174:4 180:5,5 191:15 192:2 192:5,7,11,19,20 193:23 194:8,14,15 195:12,21 273:3 <b>sheets</b> 114:12,12,21 <b>shield</b> 107:13 <b>shorthand</b> 202:12 <b>show</b> 11:12,16 13:23 23:22 30:7 95:8,15 96:8 100:8 107:15 121:21 125:4 127:9 131:24 149:21 150:19 153:23 158:2 160:4 186:24 187:4,6,19 189:24 197:12 199:20 <b>showed</b> 18:21 106:7 <b>showing</b> 96:24 109:20 151:16,20 155:11 <b>shown</b> 11:21 17:21 30:10 95:3 96:5,21 131:2 143:20 149:15 154:13 161:17 163:1 <b>shows</b> 11:14 15:5 80:11 80:13 96:16,18 97:3 122:15,21 124:19,24 125:1,4,6,12 149:9,11 149:12,16 150:6,20 152:8,11 153:16 163:21 <b>side</b> 12:1 15:6 42:10,11 42:11,14 57:22 69:21 97:1 100:19 101:7,16 101:22,22,24 113:22 113:23 114:14,15 126:1 156:17 159:11 <b>sidley</b> 2:14 10:13 273:22 <b>sign</b> 12:3 19:13 273:13 <b>signature</b> 8:10 19:10,15	28:20 141:23 143:2 202:18 203:1 273:6,12 273:11 <b>signed</b> 8:15 9:19 18:1 19:22 76:22 273:8,23 <b>signing</b> 273:12,16 <b>similar</b> 32:6 35:1 45:3 82:22 149:20 182:20 <b>similarly</b> 107:20 <b>simple</b> 137:18 <b>simplifying</b> 101:17 <b>simply</b> 108:13 <b>since</b> 34:5 78:15 110:8 134:9 140:16 177:10 <b>Sincerely</b> 273:19 <b>single</b> 161:17 169:3 180:19 181:15 <b>singularly</b> 180:13,15 <b>sir</b> 7:23 11:7 17:14 18:16 41:18 <b>sit</b> 63:12 85:22 <b>sits</b> 36:19 57:23 59:9 <b>sitting</b> 21:18 31:21 35:3 35:15 36:3 57:20 73:13 <b>situation</b> 63:9 <b>six</b> 118:14 147:1 <b>size</b> 62:21 <b>sketch</b> 94:10 <b>skill</b> 8:1 13:3 14:18,24 110:19,19 124:15 <b>skin</b> 28:13 29:3 39:19 51:18 62:4,9 115:20 119:11,22 120:5 121:8 122:12,15,17 122:23 123:5,9,16 125:10,13,16 138:15 139:7 140:18 141:8 141:17 142:8,13 144:12,16 156:3 157:14 165:4 166:13 166:23,23 167:14 168:22 170:7,20 177:12,14 186:16,17 186:20 187:1 195:22 197:5,9,22 198:4 199:21 <b>Slawomir</b> 3:7 6:1 <b>smith</b> 3:1 4:7 10:16,16 136:23,24 137:2 151:14 154:2 158:12 159:7,12 161:22 173:3 174:8,16,19 178:9,23 182:15 185:17,21 187:10,14 187:16,19 189:14,20 190:18 192:21 198:9 199:10 200:22 201:2 201:19,19 273:23	<b>Smoothness</b> 63:20 <b>softer</b> 47:5 180:23 <b>sole</b> 8:19 <b>solve</b> 139:12 140:11 <b>some</b> 9:10 10:24 11:14 29:23 35:16,17 36:6 41:22 57:13 59:14,15 59:16 63:5 66:3,13 68:7 70:2 71:22 74:10 77:2,19 85:7 86:3 91:3,10,19 94:10 95:11 101:17 105:2 108:9 111:4,4 118:16 134:9 137:9,11 139:15 146:23 152:19 191:20 198:14 200:19 201:19,19 273:23 <b>specific</b> 62:21,23 69:8 90:11 101:15 111:11 138:24 164:23 167:15 171:2 173:7 177:14 183:2 <b>specifically</b> 61:20 72:6 101:1 138:11 139:19 158:14 160:7 169:7 173:6 186:12 <b>specification</b> 9:12,22 18:3 160:3 164:5 171:8 174:18 182:17 183:18 184:15,21 185:1 <b>speculation</b> 14:11 65:16 <b>spoke</b> 172:16 <b>spot</b> 114:6 <b>spotting</b> 155:18 <b>squiggly</b> 104:7 <b>ss</b> 202:1 <b>stamp</b> 77:4 <b>stamped</b> 137:21 <b>stand</b> 56:10 88:16 182:10 <b>standard</b> 143:13 <b>standing</b> 56:11 191:2 <b>stapled</b> 32:13 <b>start</b> 7:1 112:20 128:2 137:13 157:4,18 164:15 189:19 <b>started</b> 138:4,8 148:10 182:12 <b>starting</b> 144:4 164:9 193:13 196:5 <b>starts</b> 112:22 113:4 157:2 159:23 162:10 167:1 173:17 174:9 175:2 185:9 189:2,6 <b>state</b> 7:2 20:8 82:16 90:5 202:1 <b>stated</b> 15:18 80:17 83:18,21 150:7 <b>statement</b> 9:15,18 18:12 29:7 155:10 168:15 <b>statements</b> 19:16,17,18 19:23 20:4 <b>states</b> 1:1,19 6:8 8:6,17 15:23 19:15 23:3 166:10 168:5,20 175:6 202:21 273:6,1 <b>Stella</b> 41:10 86:17 <b>stenographer</b> 202:13 <b>step</b> 147:3 <b>steps</b> 138:2 <b>stick</b> 127:22 131:13 <b>sticker</b> 187:16 <b>sticking</b> 115:21	<b>sticky</b> 24:4 <b>stiff</b> 43:7,9 64:23 67:5 139:4 <b>still</b> 9:21 18:23 31:21 65:17 73:8 139:16 163:19 185:5 191:21 193:3 195:23 <b>stood</b> 49:4 89:7 <b>stop</b> 112:21 171:20 <b>stops</b> 113:4 132:13 133:16 <b>store</b> 108:6,7 155:19 <b>stores</b> 1:7,7,8 6:7 107:2 273:5,6 <b>straight</b> 115:21 <b>Street</b> 2:5,20 3:2 6:3 203:10 273:2 <b>streets</b> 98:4 <b>strictly</b> 13:19 176:7 <b>Strike</b> 46:3,11 47:6 59:11 71:17 145:12 150:9 179:1 <b>strip</b> 13:1,4,15,17 14:3 14:4,8 20:20 21:4,5 23:24 25:4 30:20,22 31:5 33:23 34:1 43:15 43:20 45:14,18,21 61:20 62:15 79:22 112:14 140:9 168:6 177:11 179:14 184:7 188:2,5,9,11,11,16,18 190:3 197:8,13,19,20 199:20,24 200:3,8 <b>strips</b> 30:20 35:13,21 <b>subject</b> 6:22 74:13,14 75:1 79:4 80:7 85:10 94:6,21 96:3 <b>submitted</b> 9:6 202:19 <b>subparagraph</b> 185:16 <b>SUBSCRIBED</b> 273:17 <b>substance</b> 26:1 36:22 50:1 75:22 117:22 119:5 121:2,16 188:10 197:20 199:21 <b>substantially</b> 27:19,23 175:7,24 178:1 <b>suburbs</b> 22:19 <b>suffering</b> 138:13 <b>suggest</b> 24:24 <b>suggestion</b> 131:6 <b>suing</b> 78:23,24 122:3,4 <b>suit</b> 51:24 74:18 78:18 84:19 <b>Suite</b> 1:20 2:5,11 203:10 273:2 <b>sum</b> 75:22 <b>summarize</b> 169:2,6 <b>summary</b> 164:21,22,23
--	--	---	---

## HIGHLY CONFIDENTIAL

165:7 166:1,9 168:17 169:1,6,8 <b>summer</b> 11:5 <b>supersede</b> 78:2 <b>supply</b> 34:6 <b>Support</b> 19:8 106:17 154:5 <b>supports</b> 61:18,19 184:15 <b>suppose</b> 42:17 64:9 193:22 <b>supposed</b> 23:12 62:24 96:11 140:8 <b>sure</b> 12:13 16:6 18:15 23:10 24:2 32:22 33:21 34:3,15 63:4 69:6 84:15 89:20 93:9 102:21 103:7 104:13 104:24 105:15 109:4 109:15 117:13 120:23 122:1 126:17 129:10 132:2 143:8 147:24 149:3 155:23 159:15 159:23 171:17 174:21 183:22,23 184:18 185:6 186:6 187:6,22 192:12 <b>surprising</b> 147:4 <b>swear</b> 6:15 82:17 <b>switched</b> 192:19,23 <b>sworn</b> 6:18 76:22 202:10 2736:8,17	87:16 99:18 104:14 125:20 <b>talking</b> 13:9,10,19,20 38:18 39:9,13,18 59:18 69:7 77:11 78:17 82:23 83:16 84:18 97:12 98:24 99:1,7,22 109:17 116:24 122:2 123:6 123:20 126:11,12 128:16 129:22,23 130:13,14 140:21 141:10 146:4 148:11 155:24 156:1 158:20 162:18 163:3,11 165:20 166:2,14,17 167:16,17 170:13,16 171:9,13 172:11,21 175:14 177:10 184:10 193:15 194:4,5 <b>talks</b> 61:4 161:10 177:11 <b>tape</b> 72:19,21 136:16 136:19 201:6 <b>taped</b> 59:3 <b>teaching</b> 57:21 <b>tear</b> 24:1,15 34:14 48:13 126:8 <b>tearing</b> 155:18 189:18 <b>technician</b> 6:2 <b>teenager</b> 75:14 <b>telephone</b> 86:21 <b>television</b> 76:6 <b>tell</b> 19:2 21:12 23:8,11 32:3 34:11 35:23 37:10 48:14 52:13 58:22 63:15 68:2 70:14,17,19 76:19 84:24 87:19 88:20 89:1,3 117:4,12 122:10 124:15 128:2 134:13 150:8,11 151:9 153:19 191:9 <b>telling</b> 66:9 88:8 150:2 <b>tells</b> 44:9 <b>tender</b> 135:12,13 <b>tendered</b> 18:10 <b>tenth</b> 190:17 <b>term</b> 31:7 58:8,9 117:5 142:6,11 144:13 178:23 <b>terminate</b> 161:18 162:3 <b>terminology</b> 61:2 111:5 <b>terms</b> 11:2 86:2 199:24 <b>testified</b> 6:19 142:6 <b>testimony</b> 10:24 71:22 72:5 81:5 95:17 97:20 109:17 117:11 120:11 120:13 126:18 127:18	127:20 129:7,10,14 130:3 191:23 200:23 2737:10 <b>Texas</b> 2:11 <b>text</b> 8:18 9:10 17:1,10 17:14 81:16,17,18,24 82:1:1 <b>thank</b> 11:7 12:8 23:14 23:21 48:18 49:18 92:2 104:18 128:13 135:3 171:18 187:16 188:1 <b>Thanks</b> 131:13 201:23 <b>their</b> 64:19 77:3 84:12 <b>themselves</b> 10:11 161:11 <b>thickness</b> 47:22 61:17 62:17,19,24 <b>thicknesses</b> 180:18 <b>thin</b> 191:21 <b>thing</b> 39:7 140:23 142:17 151:7 <b>things</b> 136:8,12 <b>think</b> 10:24 13:23 33:17 35:15 37:19 39:22 42:16 49:23 63:4,8 64:23 65:17,23 66:8 66:12,21 68:6,7 71:6 72:14,15 73:22 78:6 82:10 83:6 84:5 85:10 85:18 86:7 95:5,10 96:20 99:17 108:10 110:21,23 111:17 117:16 118:11,23 122:6 133:21,23 136:8,9 138:21 139:2 139:11,15 145:23,24 151:3 152:18 167:15 176:9,10 177:23 184:18 185:21 186:2 186:18 192:21,21,23 198:24 200:23 <b>thinking</b> 31:11 35:18 40:4 118:10 138:5,8 171:21 177:24 <b>third</b> 28:23 90:2,3 159:2 <b>though</b> 71:21 73:13 79:9 95:6 126:21 139:19 140:12 169:10 178:14 180:2 195:21 <b>thought</b> 38:14 46:17,18 87:7,8 89:14 105:11 111:15 137:22 138:16 158:17 160:17 199:1 <b>threading</b> 139:4 <b>threads</b> 46:14 67:16 <b>three</b> 91:12 96:16,18,19 97:3 98:7 99:3,6	123:1 152:22 153:8 182:13 <b>through</b> 25:6 40:8 76:11 77:3 85:17 97:4 107:2 108:20 135:20 138:1 164:13 184:21 186:22 2736:12 2737:15 <b>throughout</b> 47:2 84:8 86:8 104:23 <b>time</b> 6:4,23 19:22 21:24 22:16 30:19 31:19 35:11 46:11,16,18,24 49:18 62:11 67:7 69:13 71:17 72:16,22 73:20,22 85:23 90:24 91:6 92:6 93:4,21,24 94:3,20 101:8 109:2 118:3,13 132:7 133:13 135:16 136:3 136:4,9,9,14,20 138:2 139:5 145:8,11,12,13 145:19,24 146:1,3,24 147:7,10 148:7,14 150:18 151:4 156:6 182:10 190:17 198:11 201:2,3,5 202:6,16 <b>times</b> 146:16,18,19 <b>tired</b> 173:2 177:23 200:17 <b>title</b> 9:1 89:24 <b>TM</b> 89:18 90:1 <b>today</b> 6:5,23 9:21 10:7 10:21 20:4 21:19 31:21 35:3,16,22 36:4 71:22 73:15,24 80:20 85:23 99:7 136:11 137:10 147:19 187:7 189:12 200:24 201:10 201:15 <b>together</b> 46:15 114:13 114:21 148:19 153:8 153:9,10 180:18 188:17 <b>told</b> 76:13 79:9 82:1 87:10,11,21,21 88:1 114:8 117:16 128:4 158:14 <b>topic</b> 52:6 <b>topside</b> 144:15 179:18 <b>tore</b> 21:2 30:24 <b>torn</b> 126:11 <b>total</b> 182:12 <b>totally</b> 76:7 89:20 <b>touch</b> 16:9 21:14,15 44:9 53:22 116:14 156:3 169:24 170:7 178:16 191:9,13 <b>touched</b> 46:16 47:3	<b>touches</b> 25:17 99:8,14 109:9,23 132:23 177:1 <b>touching</b> 16:7 44:8 57:9 57:11,12 109:7 141:8 141:13,16 144:16 156:16 157:14 165:14 168:24 169:13,18,19 170:2,12,20 174:3 176:18,21,22 177:1 178:15 191:11 <b>tough</b> 154:3 <b>towards</b> 153:11 168:14 <b>tracy</b> 1:4,16 4:1 6:7,11 6:16 7:3,6 72:6,22 73:2,8,19 78:8 84:7 85:22 86:13 91:17 92:12 95:10 99:16 102:5 103:20 107:1 110:2 111:4 112:8 118:20 121:6 123:24 134:8 136:20,24 198:21 200:20 201:5 2736:3,8,15 2737:5,7 2737:8,9 2738:1,2 <b>Tracy's</b> 72:3 <b>trademark</b> 89:9,22 <b>transcribed</b> 2737:11 <b>transcribes</b> 95:12 <b>transcript</b> 11:1 72:9 134:15 2736:11 <b>transcripts</b> 135:12 <b>transition</b> 52:6 <b>trial</b> 201:12 <b>trick</b> 85:1 <b>tricky</b> 85:1 <b>tried</b> 151:5 <b>trim</b> 115:3 <b>trouble</b> 25:7 66:9 <b>true</b> 9:18 19:16,23 20:5 29:7 42:5 44:24 56:15 57:24 58:2 194:21,22 202:14 <b>trust</b> 93:21 <b>try</b> 6:24 55:16 65:8 67:21 74:2,4 90:2 128:12 137:6 176:11 <b>trying</b> 30:7 42:15,17 79:2 83:19 85:1,6 91:6 107:15 116:1 127:19,20 128:1 129:6 130:2 145:23 153:21 180:11 <b>turn</b> 8:23 11:9 29:10 95:19 103:4 142:22 149:4 156:10 <b>turned</b> 87:8 148:18 <b>Turning</b> 199:17 <b>two</b> 13:22 56:11 87:15
---	--	---	---	--

## HIGHLY CONFIDENTIAL

99:17 101:9 113:17 123:2 131:3 135:20 157:18 164:10 166:14 166:16 167:18 178:5 184:4 186:11 197:18 <b>type</b> 75:13 77:2 88:20 93:16 147:9 148:12 148:15 184:12 <b>typed</b> 93:6 143:8,21 144:4 <b>types</b> 37:15 110:15 145:6 <b>typewritten</b> 93:14 94:2 <b>typing</b> 143:9 <b>T2799</b> 23:13	<b>upheavals</b> 200:19 <b>upper</b> 92:19 <b>upper-most</b> 112:13,16 112:18 <b>upset</b> 41:13,14 87:5,6 <b>upsidedown</b> 133:3 <b>urged</b> 41:21 <b>urgency</b> 77:23 <b>use</b> 46:10 58:8 69:24 76:18 84:7 89:16 91:18 105:13,16,18 111:11,12,15 117:20 120:6 125:23 131:11 131:15,24 132:3,5 142:15 151:1 171:18 194:6 199:3 <b>used</b> 29:3 37:20,21 44:24 45:1 56:6 61:2 63:15 82:22 83:6 84:8 84:11 85:7 101:19 110:4 111:5 118:13 135:17 139:17 142:7 144:13,14 145:7 178:24 <b>useful</b> 139:17 <b>user</b> 141:9 <b>uses</b> 115:11 116:20 119:17 146:15 <b>using</b> 56:5 86:10 103:11 119:10 121:6 139:14 140:20 141:3 182:7 194:6 <b>usually</b> 12:22 16:8,16 40:14 168:11 <b>utility</b> 18:18 40:2,9 41:9,11,19 74:23,24 75:4,6,17 80:14 86:22 88:2,9,18,24 89:4,7 131:9,10 146:1,5,20 <b>U.S.</b> 7:5,10 28:18 71:24 74:16	<b>verbal</b> 147:15,16 <b>verbis</b> 174:15 <b>version</b> 86:11 93:14 94:2,3,14 96:24 <b>vertical</b> 49:3 <b>very</b> 32:6 33:15,23 35:1 36:2 40:1 45:3 51:12 63:9,11 74:4 88:15 108:20 109:2,12 112:22 115:7 128:16 132:12 133:15 147:3 159:23,23 160:2 167:15 173:2 177:13 198:10 200:18 <b>video</b> 6:2 <b>videographer</b> 3:7 6:1 52:9,11 72:18,21 95:19 97:15,16 110:5 112:4,6 114:4,6 118:14,17,19 130:22 132:10,11 135:16,18 135:23 136:1,16,19 172:22,24 182:11,13 198:16,18 201:4 <b>videotape</b> 109:14 <b>Videotaped</b> 1:16 <b>view</b> 41:15 60:3 66:23 69:1 72:3 110:18 <b>visualizing</b> 58:9 <b>visually</b> 154:23 <b>vs</b> 1:6 2736:4	<b>weight</b> 139:10 <b>went</b> 40:16 140:15 184:21 <b>were</b> 2:1 16:15 18:19 23:2 41:14 45:9 63:23 73:3,16 74:5 77:11 78:4 80:19 82:24 83:6 86:10 89:15 92:1,12 92:15 94:20 99:7 101:6 102:19 103:3 105:1,24 106:9 107:17,19 109:17,19 109:22 113:21 114:7 115:7,24 123:6 138:14,20 139:21 147:15 148:20 151:4 152:22 158:17 160:17 161:21 163:13 168:3 169:4 170:19 201:10 202:8,12 <b>West</b> 2:5 203:10 2737:2 <b>western</b> 22:19 <b>wet</b> 174:6 <b>we'll</b> 67:21 187:16 <b>we're</b> 6:22,24 11:8 39:9 39:13,18 42:17 85:12 85:19 96:9 122:1,2,3 134:24 146:4 156:1 162:18 164:13 171:8 173:3 177:10 182:11 201:15 <b>we've</b> 30:11 46:3 49:12 49:16,24 52:5 68:23 73:21 99:18 131:17 192:19 194:6 201:9 <b>while</b> 92:14 133:7 172:18 184:13 <b>white</b> 24:18,23 32:10 <b>whopping</b> 136:6 <b>width</b> 25:7 <b>wife</b> 44:1 <b>willful</b> 19:18 <b>william</b> 2:15 4:5 2737:22 <b>willing</b> 147:10 <b>Wisconsin</b> 2:21 <b>witness</b> 6:10,15,17,24 14:12,15 15:14 32:22 34:18 48:19 57:11 64:5 65:17 67:2 71:18 72:11 75:21,24 76:4 79:8,13 84:23 95:20 98:5 100:3 110:7 114:5,8 120:17 123:20 130:23 132:12 134:19,23 136:7,15 159:9 161:16 172:20 173:1 177:5,9 178:18 180:11 189:18 198:13
	<b>v</b> 6:7 2737:7 2738:1 <b>vague</b> 14:11 79:6 185:20,23 <b>vaguely</b> 21:24 102:13 <b>vagueness</b> 80:10,17 <b>valid</b> 139:15 <b>Van</b> 18:18 29:2 40:21 41:4,6,13 74:21 77:9 77:12 87:7,17,22 89:21 90:5,18 93:1,19 102:14 104:14,22 143:6,12,15,17,18 146:22 147:17 150:4 <b>variations</b> 145:3,9 <b>various</b> 143:21 147:7 <b>varying</b> 65:18	<b>waist</b> 11:13,20 13:5,15 14:3 27:7,10,15,21 31:9 36:13 38:19 39:2 39:4 43:16 44:16 45:15,23 49:2 54:21 55:9,12,18 69:21 84:6 94:11,16 107:13 113:2,9,10,11,11,17 125:1 139:4 140:3 149:21 150:3,9,21 151:10,11,20 152:18 153:24 154:21 157:9 169:12 173:21 <b>waistbands</b> 113:13,15 113:16 <b>waistline</b> 94:7 107:21 115:2,4,4 153:1 156:14 165:2,5,11 166:2,11,20 167:11 168:10,12,13 169:16 169:17 170:3,5,16,17 170:18,19,20 171:3,5 171:6,7 173:12 <b>waistshield</b> 155:1 <b>wait</b> 24:15 27:10 67:10 68:4,5 79:11 111:17	<b>way</b> 18:16 44:11 51:15 58:3 59:21 71:15 80:16 87:8 89:7 90:9 94:15,21 95:13,13,19 97:17 98:15 101:8,19 114:19 118:11 125:8 125:15 128:12 129:2 137:16 138:16 150:2 150:8,11 155:3 156:5 178:18 179:24 <b>wearer</b> 62:17 141:17 157:10,11,15 163:7,8 163:17 167:9 169:13 170:12 173:22,23 174:3 175:8,15 176:1 176:14,19 177:1,2 178:2,11,13,15,16 179:10 185:14,19 186:8,10,13,16 187:1 191:16 192:3,6,15 195:22 <b>wearer's</b> 140:18 <b>wearing</b> 22:4 101:6 119:12 121:9,24 122:13,23 168:22 178:12 <b>weaved</b> 25:5 <b>weaving</b> 25:8 67:16 <b>Webster's</b> 86:12

## HIGHLY CONFIDENTIAL

199:11 200:21 202:5 202:10,16,18 203:1 <b>wonder</b> 192:19 <b>word</b> 14:16 15:15 56:5 61:19 63:15,21 84:7 89:18 90:21 91:13 103:11 105:13,16,19 115:11 116:2,20 117:20 118:1 119:2 119:10,18 121:7 125:21 151:2 169:3 178:20 199:3 <b>words</b> 82:16 83:6 84:11 85:7,17 88:7,16 89:7 90:15 174:18 188:17 194:6 <b>work</b> 148:19 160:2 <b>worked</b> 140:7 <b>worn</b> 24:8 42:18 109:24 114:20,20 115:18 125:11,17 127:15 165:4,12 166:13,24 167:14 170:7 <b>wouldn't</b> 16:6 42:20 43:8 48:5 58:5 63:7 65:13 68:5 82:11 105:11,16 139:8,17 169:8 <b>woven</b> 67:5 <b>wrap</b> 43:20 45:18 <b>wrapped</b> 45:21 <b>wraps</b> 79:22 168:6 <b>write</b> 11:23 12:3 32:17 40:20 90:16 <b>writing</b> 41:12 154:18 273:17 <b>written</b> 17:9 78:14 81:21 107:18 156:14 160:4 161:5 164:8,16 171:22 174:12 182:17 183:6 <b>wrong</b> 87:20 183:13 <b>wrote</b> 28:17 29:8 30:6 33:19 35:9,24 40:12 41:4 81:15 87:1 156:8	1 4:15 7:5,17 51:22 60:16,21,23 61:2,4 72:19 78:24 79:24 84:20 85:24 93:2,9 95:9 100:9 104:1 109:13,21 110:3 111:8,15,23 118:21 119:2,4,14,16,17 121:12 124:1 130:18 130:19 152:1,2,6 156:22 157:2,4 159:2 161:19 162:10,23 163:12,15 164:2,9,15 164:24 166:1 167:23 168:16,17 171:9 173:8 182:17,24 183:6 <b>105</b> 72:22 <b>10</b> 5:4 29:18 42:9 63:23 64:9,13,15 65:22,23 78:24 84:20 85:24 86:17 87:2 161:19 172:5 173:15 174:9 174:14 175:2 182:16 182:19,23 183:3 184:10,14 188:6,9,12 188:14,15 193:8,10 193:13 194:16 195:1 200:3 201:17 <b>10:07</b> 1:22 <b>10:09</b> 6:4 <b>102</b> 5:12 <b>102(d)</b> 19:9 <b>103</b> 5:13 <b>107643</b> 71:24 <b>108</b> 5:14 <b>11</b> 5:5 20:9 43:24 106:19 201:17 <b>11:09</b> 52:9 <b>11:26</b> 52:11 <b>11:52</b> 72:18 <b>111</b> 5:15 <b>125</b> 7:5 3:7 144:2 201:17 <b>135</b> 8:58:21,22 59:1 60:9,12 144:23 145:2 201:17 <b>1301</b> 2:10 <b>134-135</b> 4:10 <b>136</b> 4:7 <b>14</b> 5:10 79:1 84:20 85:24 91:24 92:3,14 92:17,19 93:14 94:13 96:2 99:16 <b>15</b> 5:11 79:1 84:20 85:24 92:5,6,9,14	93:13,16 96:2 99:17 119:13 177:10 185:9 186:15 188:19,22 196:1,4 197:18 200:6 <b>1500</b> 203:10 2737:2 <b>16</b> 5:12 102:2,3,24 161:20 <b>16A</b> 172:9 <b>16B</b> 172:9 <b>17</b> 5:13 103:18,21 161:20 <b>18</b> 5:14 107:9,12 108:3 108:3,9,13 154:13,15 161:21 172:6 <b>187</b> 5:16 <b>189</b> 5:18 <b>19</b> 4:19 5:15 107:10,20 108:1 111:1,12 113:13 120:7 125:23 126:18 128:4 133:19 133:23,24 134:1 156:10 201:18 <b>198</b> 4:8 <b>1980s</b> 63:24 <b>1986</b> 46:19 70:7 76:20 78:15 110:8 137:16 137:19,22 138:3 142:5 <b>1987</b> 8:7,15 9:16,18 12:8,13,19 13:4,13 14:3,24 16:20 17:3,12 18:1 80:6,21 146:5,7 146:8,20 147:5 <b>1988</b> 20:9 22:23 23:3 106:19 <b>1989</b> 19:13 28:18 29:8 29:18 33:19 34:7,10 35:9,18,24 86:17 87:2 <b>1990</b> 146:2 148:9 <b>1998</b> 32:6,14	173:8 182:17,24 183:6 <b>2nd</b> 142:4 <b>2:02</b> 112:4,6 <b>2:12</b> 118:17 <b>2:24</b> 118:19 <b>2:49</b> 135:23 <b>2:51</b> 136:1 <b>2:52</b> 136:17 <b>2:59</b> 136:20 <b>20</b> 5:16 6:2 108:1 161:17 187:11 188:8 201:20 <b>200</b> 2:5 <b>2000</b> 1:23 4:2 6:4 136:21 203:3 2736:10 2736:18 2737:4,10 <b>2032</b> 102:7 <b>204</b> 2736:12 <b>21</b> 5:18 189:15,23 193:9 195:5 196:14 197:4 198:1 201:20 <b>22</b> 161:1,1,18 <b>225</b> 3:2 <b>23</b> 5:2 <b>230</b> 203:10 2737:2 <b>233</b> 2737:5 <b>236-8461</b> 2737:3 <b>236-8500</b> 2:6 <b>24</b> 19:13 158:7,8,9,12 159:3,11 161:19,22 161:24 162:3,24 163:24 164:1 <b>25</b> 4:2 6:3 12:5 72:22 136:20 2736:10 2737:10 <b>25th</b> 1:23 12:6 <b>263-3524</b> 203:11 2737:3 <b>2736</b> 1:6 6:10 2737:7 <b>28</b> 4:20 162:9 <b>2850</b> 2:5	136:19 149:4,7,12,1 149:20,23 151:9,20 152:5,11 157:18 164:10 165:16,22 167:17,23 168:5,16 168:19,20 169:23 170:10 172:6 173:15 199:18 201:6 <b>3-D</b> 96:14 <b>3-66927</b> 2737:23 <b>3:58</b> 172:22 <b>30</b> 104:17 202:20 2737:12,17 <b>31</b> 29:10 30:11 31:17 <b>312</b> 2:6,17 203:11 2737:3,3 <b>32</b> 4:21 92:10 141:19 144:14 202:20 <b>33</b> 142:22 146:9 <b>34</b> 4:23 144:1,24 160:23 161:2 <b>349</b> 2:21 <b>35</b> 143:2
				<b>4</b>
				<b>4</b> 4:18 8:13 9:5,10,19 18:1 159:13,16 160:7 160:13,15,16 161:8 162:11 172:6 186:22 193:13,13 <b>4:00</b> 2737:15 <b>4:08</b> 172:24 <b>4:48</b> 198:16 <b>4:56</b> 198:18 <b>4:59</b> 201:5 <b>40</b> 162:14 <b>401</b> 2:20 <b>42</b> 5:4 160:10,13,19,22 160:23 161:3,7 162:14,15,18 <b>43</b> 5:5 <b>44</b> 164:24 <b>48</b> 5:1
				<b>5</b>
				<b>5</b> 4:19 19:8 23:17 106:9 106:14,17 107:9 149:6,9 150:3 154:4 <b>5,064,421</b> 7:10 <b>5,797,824</b> 7:5 <b>5-25-00</b> 2737:8 2738:1 <b>50</b> 110:4 163:2,24 164:1 <b>5100</b> 2:11 <b>53</b> 5:7 110:5,6 <b>54957</b> 2:21 <b>5500</b> 1:20 <b>58</b> 5:8

## HIGHLY CONFIDENTIAL

---

**6**

**6** 4:5,20 28:17 31:13  
32:5 33:4,9,14 34:13  
34:24 35:10 36:1  
40:18 86:14 87:3  
89:13 92:10 96:9  
103:15 104:17 117:19  
117:21 141:18 142:22  
144:24 146:10 148:18  
**60137** 2737:6  
**60603** 2:16  
**60606** 2:6 203:11  
2737:2  
**617** 3:3  
**62** 111:21  
**63** 115:8  
**651-5628** 2:12

---

**7**

**7** 4:15,16,21 32:1,12  
33:6,13,18 52:13 55:9  
55:10 56:16 201:21  
2737:4  
**7A** 4:23 34:9,11,21 35:8  
35:19,23 36:7,11,22  
38:4 52:18,19 54:5  
201:17  
**71-72** 4:10  
**713** 2:12  
**721-2331** 2:22  
**73** 4:6  
**77010** 2:11

---

**8**

**8** 4:17,18 5:1 48:12,17  
49:11 52:23 54:17,18  
56:20 58:10 201:17  
**824** 78:18,20 80:1,4,19  
84:11 85:7,23 97:7  
110:3 111:5,14,23  
115:9 118:21 121:12  
124:1,10,12 125:19  
137:14 156:23 187:8  
187:17 189:20  
**85** 138:7,9,10  
**853-7350** 2:17  
**86** 69:5 146:22  
**87** 146:24

---

**9**

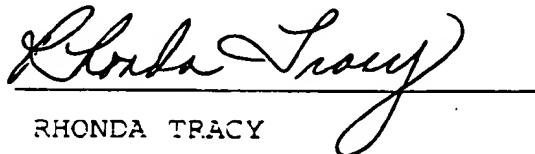
**9** 5:2 23:6 24:11 25:24  
26:4 53:3 58:13 78:24  
84:20 85:24 201:22  
**9:00** 2737:14  
**92** 5:10,11  
**920** 2:22  
**956-5968** 3:3  
**99** 1:6 6:10 2736:4  
2737:7

THIS PAGE BLANK (USPTO)

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

RHONDA TRACY, )  
Plaintiff, )  
 )  
-vs- ) No. 99 C  
 )  
JEWEL FOOD STORES, INC., )  
AMERICAN STORES COMPANY, )  
et al., )  
Defendants. )

I, RHONDA TRACY, being first duly sworn, on oath say that I am the deponent in the aforesaid deposition taken on May 25, 2000; that I have read the foregoing transcript of my deposition, consisting of pages 1 through 204 inclusive, and affix my signature to same.



RHONDA TRACY

SUBSCRIBED AND SWORN TO  
before me this 31st day of July 2000

A.D. 2000.



Notary Public



**THIS PAGE BLANK (USPTO)**

AUG-01-2000 09:43

C A M M C M

3122369216 P.02/02

CASE: Tracy -v- Jewel

DATE TAKEN: 5-25-00

(1)

DEONENT: Rhonda Tracy

PAGE	LINE	ERRATA SHEET
<u>13</u>	<u>18</u>	CHANGE: <u>after "the" insert strip shown in</u> REASON: <u>this.</u>
—	—	CHANGE: <u>V</u>
—	—	REASON: <u>Clarification</u>
<u>16</u>	<u>1</u>	CHANGE: <u>"perhaps" to: very likely</u> REASON: <u>Clarification</u>
<u>17</u>	<u>14</u>	CHANGE: <u>"Except for stating that the</u> REASON: <u>design is for a disposable diaper</u> CHANGE: <u>there is nothing else in the text."</u> REASON: <u>Clarification</u>
<u>26</u>	<u>24</u>	CHANGE: <u>"Yes" to : No</u> REASON: <u>Question not clear - context</u>
<u>50</u>	<u>19</u>	CHANGE: <u>"Yes" to : No</u> REASON: <u>Clarification / make sense</u>
<u>45</u>	<u>10</u>	CHANGE: <u>Drop word "then" at the end.</u> REASON: <u>After word.</u>
<u>57</u>	<u>22</u>	CHANGE: <u>"Sides" to : beside</u> REASON: <u>Reporter may not have heard "be."</u>
<u>76</u>	<u>5</u>	CHANGE: <u>"You know" to : As far</u>

(signed)

Rhonda TracyDATE 7-21-00

Reporter: Nadine J. Watts

**THIS PAGE BLANK (USPTO)**

453-21-2002 03:43

CAMMCM

3122359216 P.02-02

(2)

CASE: Tracy -v- Jewel

DATE TAKEN: 5-25-00

DEFONENT: Rhonda Tracy

PAGE	LINE	ERRATA SHEET
76	5 (contd.)	CHANGE: <u>for as I know."</u> REASON: <u>Grammer</u>
81	21	CHANGE: <u>After "not in written form"</u> REASON: <u>insert: except that the title</u> CHANGE: <u>of the patent application recite</u> REASON: <u>a disposable diaper.</u>
		CHANGE: <u>V</u>
		REASON: <u>Clarification</u>
119	11	CHANGE: <u>after "something" insert: other</u> REASON: <u>Grammer usage</u>
139	5	CHANGE: <u>"Provided" to "did not provide</u> REASON: <u>Clarify sentence</u>
140	23	CHANGE: <u>After "prototype" insert: was to</u> REASON: <u>Grammer</u>
141	1	CHANGE: <u>Strike from "But (though) model"</u> REASON: <u>Insert: I did present it to my</u> CHANGE: <u>attorney, Mr. Van Geps.</u>
		REASON: <u>Clarification</u>
151	8	CHANGE: <u>After "implied intention"</u>

(signed) R. Tracy DATE 7-31-00

Reporter: Nadine J. Watts

**THIS PAGE BLANK (USPS10)**

AUG-01-2000 09:43

C A M M C M

31223E9216 P.02/02

(3)

CASE: Tracy -v- Jewel

DATE TAKEN: 5-25-00

DEPONENT: Rhonda Tracy

PAGE

LINE

ERRATA SHEET

<u>151</u>	<u>8</u> <i>(cont.)</i>	CHANGE: <u>insert: That is an implicit disclosure</u>
—	—	REASON: <u>V</u>
—	—	CHANGE: <u>Clarification</u>
<u>162.</u>	<u>24</u>	CHANGE: <u>From beginning &amp; insert: One</u>
<u>163</u>	<u>1*2</u>	REASON: <u>soft padding member is marked as 50."</u>
—	—	CHANGE: <u>Clarification</u>
<u>163</u>	<u>16</u>	CHANGE: <u>After "not" insert: required to be.</u>
—	—	REASON: <u>V</u>
—	—	CHANGE: <u>Clarification</u>
<u>163</u>	<u>24</u>	REASON: <u>Change afterward: To the extent that I understand your question, the patent says element 50 of Fig. 2 is the soft padding member (for the wristband,</u>
<u>164</u>	<u>1</u>	CHANGE: <u>padding member (for the wristband,</u>
—	—	REASON: <u>V</u>
—	—	CHANGE: <u>Clarification</u>
<u>174.</u>	<u>15</u>	CHANGE: <u>"ipissimumis" to ipissima</u>

(signed)

*Rhonda Tracy*DATE 7-31-00

Reporter: Nadine J. Watts

**THIS PAGE BLANK (USPTO)**

CASE: Tracy -v- Jewel

DATE TAKEN: 5-25-00

DEPONENT: Rhonda Tracy

(4)

PAGE	LINE	ERRATA SHEET
------	------	--------------

		CHANGE: _____
<u>174</u>	<u>15</u> <i>(contiu.)</i>	REASON: <u>Spelling</u>
		CHANGE: _____
<u>49</u>	<u>4</u>	REASON: { <u>Special note: (Question of</u>
		CHANGE: } <u>P. 49 1-3, not completely clear)</u>
		REASON: } <u>Context</u>
		CHANGE: _____
		REASON: _____
		CHANGE: _____
		REASON: _____
		CHANGE: _____
		REASON: _____
		CHANGE: _____
		REASON: _____
		CHANGE: _____
		REASON: _____
		CHANGE: _____
		REASON: _____
		CHANGE: _____
		REASON: _____
		CHANGE: _____
		REASON: _____
		CHANGE: _____
		REASON: _____
		CHANGE: _____

(signed) Rhonda Tracy DATE 7-31-00

Reporter: Nadine J. Watts

**THIS PAGE BLANK (USPTO)**